

DECLARATION OF JOSEPH A. YANNY

I, JOSEPH A. YANNY, having personal knowledge of the following hereby declare and state that:

1. I am an attorney at law, duly admitted to practice before the United States Supreme Court, the Supreme Courts of the States of California and Illinois, and numerous other federal courts and administrative agencies. This is the tenth year of my admission to practice law. I am the sole shareholder of the entity known as Joseph A. Yanny, a Professional Corporation, which does business as Herzig & Yanny.

2. I have from time to time, represented the Plaintiffs herein (hereinafter collectively referred to as the "Cult") over the course of several years. My Corporation and I are Defendants herein, along with several of my associates. The Cult asks for equity, but their hands are unclean.

3. One of the basic beliefs of the Cult is the much written about "FAIR GAME" policy which states that an "ENEMY" of Scientology:

May be deprived of property or injured  
by any means by any Scientologist  
without any discipline of the Scientologist.  
May be tricked, sued or lied to  
or destroyed.

A true and correct copy of which is submitted as exhibit A.

4. The Corollary to this "Fair Game" Doctrine is the "Religious Practice" set forth in the Cults' "Scripture" known



1 as the "level 0 checksheet" (a true and correct copy which is  
2 submitted as Exhibit 1) and provides at the page marked as 55:

3 The purpose of the suit is to harass and  
4 discourage rather than to win. The law can  
5 be used very easily to harass and enough  
6 harassment on somebody who is simply on the  
7 thin edge anyway, well knowing that he is not  
8 authorized, will generally be sufficient to  
9 cause his professional decease. If possible,  
10 of course, ruin him utterly.

11 (emphasis added)

12 That is the purpose of this suit against myself, my firm and my  
13 associates. The Cult is so anxious to abuse process that it  
14 claims it needs expedited discovery, a special dispensation from  
15 the Rules of Discovery intended to allow a Defendant sufficient  
16 time to secure and brief counsel.

17 5. The "Fair Game" doctrine has been discussed at length  
18 in numerous litigations including the one entitled U.S. v.  
19 Hubbard reported at 474 F. 2d 64 (D.C .D.C. 1979), its pre-  
20 decessors and its progeny. See e.g., 572 F. 2d 321, 591 F. 2d  
21 533, 650 F. 2d 293, 668 F. 2d 1238, 436 F. Supp. 689, 529 F.  
22 Supp. 945. In that case, top executives of the Cult were  
23 eventually convicted of crimes including theft of U.S.  
24 Government documents, obstruction of justice, and other "fair  
25 game" related activities against the Government of the U.S., a  
26 known "ENEMY" of the Cult. See Exhibit 25 and 27 submitted  
27 herewith i.e. Sentencing Memorandum and Stipulation of Evidence

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1           6. As late as 1984, Judge Breckenridge of this Honorable  
2 Court, wrote an opinion finding that the infamous "fair game"  
3 doctrine was still in full force and effect, barring equitable  
4 relief against the defendant in that case, Mr. Gerald Armstrong,  
5 who had actually stolen documents from the Cult. A true and  
6 correct copy of the decision in the case of Hubbard v. Armstrong  
7 is submitted herewith as Exhibit B.

8           As Judge Breckenridge stated at page 8 of that opinion:

9           In 1970 a police agency of the French Govern-  
10 ment conducted an investigation into Scien-  
11 tology and concluded, "this sect, under the  
12 pretext of 'freeing humans' is nothing in  
13 reality but a vast enterprise to extract the  
14 maximum amount of money from its adepts by  
15 (use of) pseudo-scientific theories, by (use  
16 of) 'auditions' and 'stage settings' (lit. to  
17 create a theatrical scene) pushed to extremes  
18 (a machine to detect lies, its own particular  
19 phraseology . . ), to estrange adepts from  
20 their families and to exercise a kind of  
21 blackmail against persons who do not wish to  
22 continue with this sect."2 From the evidence  
23 presented to this court in 1984, at the very  
24 least, similar conclusions can be drawn. In  
25 addition to violating and abusing its own  
26 members civil rights, the organization over  
27 the years with its "Fair Game" doctrine has  
28 harassed and abused those persons not in the

10.



1 Church whom it perceives as enemies. The  
2 organization clearly is schizophrenic and  
3 paranoid, and this bizarre combination seems  
4 to be a reflection of its founder LRH.

5 Judicial Notice thereof is requested.

6 7. I would call the Court's attention to the doctrine of  
7 collateral estoppel, best stated by the U.S. Supreme Court in  
8 the case of University of Illinois v. Blonder-Tongue Labora-  
9 tories, 402 U.S. 313, 28 L. Ed. 2d 788, 91 S. Ct. 1434 (1971).  
10 I could cite California and Federal authority for the proposi-  
11 tion that once a policy such as "Fair Game" is established, the  
12 burden shifts to the Cult to establish "a change in circum-  
13 stance." However, I do not have the research on the subject nor  
14 my notes and copies of cases thereto (they are locked in this  
15 Court's jury room.)

16 8. The Court should also see the case of Allard v. Church  
17 of Scientology of California, 129 Cal. Rptr. 797 (2nd Dist.  
18 1976), submitted as exhibit 5 herewith, and the full text of the  
19 Stipulation of Evidence in the case of United States v. Hubbard,  
20 which sets fourth the various "Religious" practices of the Cult  
21 as including:

22 III. The conspiracy to intercept oral commu-  
23 nications, Burglarize and steal and the  
24 substantive acts committed pursuant thereto.

25 IV. The conspiracy to Obstruct Justice, to  
26 obstruct an investigation, to harbor a  
27 fugitive and to make false declarations  
28 before the grand jury.



1           9.     Submitted herewith a collection of exhibits which  
2 consist mostly of pleadings, evidence, exhibits, and judges'  
3 opinions in legal cases, with the only exceptions being No. 15,  
4 a magazine article, and No. 12, complaints filed with the  
5 Massachusetts Board of Bar Oversees by the Cult.

6           These materials are offered to show the chronic nation-  
7 wide contempt which the Cult has shown for all judicial process.  
8 These materials clearly demonstrate that the Cult, according to  
9 written policy, will use any means legal or illegal to subvert  
10 and frustrate judicial process against them, and will willingly  
11 and knowingly abuse judicial process in order to attack per-  
12 ceived "enemies". The victims of these attacks include lawyers,  
13 judges, witnesses, and party defendants.

14           10.    The following is a brief characterization of each of  
15 the included documents. True and correct copies of the exhibits  
16 are submitted herewith to wit:

17           Exhibit 1.   Purpose of a Lawsuit. This exhibit includes  
18 two items. The first is a magazine article written by L. Ron  
19 Hubbard, the founder of Scientology, describing how to use a  
20 lawsuit to harass opponents (see page 55). The second is an  
21 internal Scientology document, that was part of the court record  
22 in United States v. Mary Sue Hubbard, Cr.No. 78-401 (D.Ct.,  
23 D.C.).

24           It states that the object of litigation with the I.R.S. is  
25 delay.

26           Exhibit 2.   "Freedom of Speech Includes Freedom to Malign".  
27 This document, written by Jane Kember, includes a blunt des-  
28 cription of how knowingly frivolous lawsuits can be used to



1 drive publishers into submission. Kember states that since in  
2 the U.S. a person who loses a lawsuit is not required to pay the  
3 opponent's cost, frivolous suits are an effective means of  
4 imposing unbearable financial burdens on publishers and thereby  
5 suppressing publication of materials on Scientology.

6 Exhibit 3 - 9 Various cases which the Cult lost including  
7 findings of frivolousness with the award of sanctions.

8 Exhibit 10. Readers Digest Case. The Cult attempted to  
9 enjoin the publication of a Readers Digest article in Denmark.  
10 The Court held that the suit was without merit and ordered the  
11 Cult to pay the Readers Digest Dkr. 2000.

12 Exhibit 11. Lawsuits Against Attorneys Michael Flynn and  
13 Thomas Hoffman. Attorneys Flynn and Hoffman represented plain-  
14 tiffs who were suing the Cult. The Cult has sued the attorneys  
15 and their employees. This exhibit includes the cover sheets of  
16 the suits and two court orders dismissing the suits.

17 Exhibit 12. Frivolous Bar Complaints. The exhibit  
18 includes cover sheets of frivolous bar complaints against  
19 attorneys representing plaintiffs who are suing the Cult.

20 Exhibit 13. Church of Scientology v. Cooper. In this  
21 opinion, Federal Judge Hauck describes an incident in which a  
22 Cult member was found wandering around in a security area in the  
23 Los Angeles Federal Courthouse.

24 Exhibit 14. Motion to Disqualify. Self-explanatory.

25 Exhibit 15. Article From "American Lawyer". Describes a  
26 number of covert operations against judges who were sitting on  
27 Cult cases.



1       Exhibit 16. Investigations of Judges. The three parts o  
2 this exhibit describe Cult operations to investigate the per-  
3 sonal backgrounds and families of judges deliberating in Scien-  
4 tology cases. These exhibits are internal Cult documents seized  
5 by the F.B.I. from Cult headquarters in 1977 and were part of  
6 the court record in United States v. Mary Sue Hubbard, supra.

7       Exhibit 17. Affidavit Regarding Infiltration. This  
8 affidavit of Dennis Quilligan describes the efforts of a Cult  
9 lawyer to infiltrate the State's Attorneys office and his  
10 successful infiltration of the lawfirm, representing Mayor  
11 Cazares, who was then being sued by the Cult.

12       Exhibit 18. Unsigned Stipulation of Evidence. This  
13 lengthy document was the agreed basis for the conviction of the  
14 Church's top leaders in Federal Court in Washington, D.C. It  
15 includes a variety of criminal actions committed by the Scien-  
16 tologists, including obstruction of justice.

17       Exhibit 19. Instructions on How to Lie. An internal Cult  
18 document containing instructions on how to lie effectively.

19       Exhibit 20. Instructions on How To Steal Documents. This  
20 appalling document is self explanatory. It was seized in the  
21 F.B.I. raid. The second part of the exhibit shows full know-  
22 ledge by Cult officials of ongoing burglaries.

23       Exhibit 21. More Instructions. Self-explanatory.

24       Exhibit 22. "Bulldozer Leak". This document describes an  
25 operation to frustrate service of legal process by fraudulent  
26 means. This document was seized in the F.B.I. raid.



1       Exhibit 23. Project Quaker. This document describes an  
2 operation to obstruct justice by concealing witnesses. Also  
3 taken in the F.B.I. raid

4       Exhibit 24. Early Warning System. A scheme to frustrate  
5 legal process by fraudulent and criminal means. This document  
6 was also taken in the F.B.I. raid.

7       Exhibit 25. Scientology Memorandum. This is a lucid  
8 description of the scope of criminal and tortious activities and  
9 abuse of the judicial system by the Scientologists.

10       Exhibit 26. List of Scientology Lawsuits. This exhibit  
11 is a partial list of lawsuits brought by the Cult, intended to  
12 show the extreme litigiousness of the cult.

13       Exhibit 27. The Signed Stipulation referred to in  
14 Exhibit 18.

15       11. I have personal knowledge of the fact that while the  
16 Cult claims in the verified complaint, to be religious, this  
17 Cult claims to be religious only within those jurisdictions  
18 where it is expedient to be so, e.g. the U.S. where there is a  
19 tax exempt status for such activities and a first amendment to  
20 hide behind when tortious and criminal activity must be  
21 defended. However, I have personal knowledge that in such  
22 places as Israel and many parts of Latin America, where it is  
23 not expedient to be a religious organization, (because of a  
24 state religion and a prohibition against ownership of property  
25 by Religious organizations, Respectively,) "The Cult" claims to  
26 be a philosophical Society. I also have personal knowledge of  
27 documents which can prove these facts, which documents are in  
28 the possession of Thomas Small, Esq. of the firm of McDonald &



1 Halstead, and Cult member such as Alan Cartright and a young  
2 lady named "Kirsten" (pronounced-Sher Ston).

3 12. The Court should also be aware of the verdict in two  
4 recent cases, to wit:

5 1) Christofersin (Titchbourne) v. CSC,  
6 Hubbard et al., Portland, Oregon decided in  
7 1985 (Case citation in Court's Jury room) (in  
8 which a jury awarded Mrs. Titchbourne \$39  
9 million dollars as a result of the "Fair  
10 Game" "Religious" practices directed at her);  
11 and the case of 2) Wollersheim v. C.S.C. in  
12 LA Superior Court before the Honorable Ronald  
13 Swearingen (citation in Courts Jury Room) (in  
14 which the jury awarded Mr. Wollersheim \$30  
15 million as a result of the "Fair Game"  
16 "Religious" Practices directed at him)

17 13. Since the outbreak of hostilities between the Aznarans  
18 and the Cult, there is additional evidence of continued applica-  
19 tion of the "Fair Game Doctrine" present in the instant case, to  
20 wit:

21 1) Ms. Karen McRae, one of my alleged  
22 co-conspirators herein, after having been  
23 visited upon by various attorneys for the  
24 Cult (including two phone calls from: Earle  
25 Cooley, Esq. and one visit in Dallas, Texas,  
26 by a female attorney from a D.C. firm repre-  
27 senting the Cult), was severely beaten by two  
28 unknown assailants in Dallas, Texas;



1           2) Rick Aznaran, while under surveillance  
2 by agents of the Cult, was the object of a  
3 hit and run accident in the State of Texas;

4           3) This past week, Ms. Wilske, my fiancée,  
5 was the object of an auto accident involving  
6 collision of the front and the rear of her  
7 vehicle, totally disabling it and injuring  
8 her;

9           4) I, on Sunday June 26, 1988, at about  
10 5:00 p.m. was stopped by no less than four  
11 local police cars, in the City of Bellaire,  
12 Ohio. The police called me by name and  
13 informed me that they had information that I  
14 was in possession of firearms and cocaine  
15 (the very same allegations made by the Cult  
16 in this case.) I was informed by the police  
17 that I had two options i.e. to allow my car  
18 to be searched or be arrested on the spot.  
19 Needless to say, I permitted the car my  
20 person and the person of my relative to be  
21 searched. Nothing was found. The next day,  
22 Monday the 27th of June, the occupants of two  
23 out-of-state cars having Pennsylvania plates,  
24 were questioned by local officials. The  
25 occupants, stated that they had had me under  
26 surveillance since Saturday, June 25, 1988  
27 (before the search by the police), and that  
28 they had been hired by a Washington D.C. firm



1 (who represents the Cult) named Williams &  
2 Connolly. A full report on this matter is now  
3 in the hands of the FBI.

4 5) At a meeting held in the offices of  
5 Howard Weitzman, on June 15, 1988, I was  
6 informed by Mr. Weitzman, that this suit need  
7 not be filed and "could be handled", if and  
8 only if, the Aznaran suit would be made to go  
9 away.

10 6) Since I stopped representing the Cult in  
11 or about November or 1987, my offices have  
12 been broken into on at least three occasions  
13 (once with a crow bar), and numerous docu-  
14 ments are now missing relating to the cult.  
15 These break-ins were conducted a number of  
16 months after Mr. Moxon (an unindicted co-  
17 conspirator in the United States v. Hubbard  
18 case) had "cased the Joint" under the guise  
19 of wanting to rent space from me;  
20

21 Now as to the players:

22 14. As to Mr. Vallier, my former associate, an officer of  
23 my professional Corporation, and former employee, I state as  
24 follows:

25 a) Mr. Vallier, quit my employment in the month of  
26 February on a few days notice;

27 b) Mr. Vallier is a well known seller of large quantities  
28 of cocaine and has been so for years;



1 c) I am informed by Mr. Vallier that he was first busted  
2 and convicted on drug charges at age 17, I am informed that  
3 through the aid of his father (a local attorney), he had the  
4 matter expunged from his record. Mr. Vallier expressed concern  
5 to me during 1986 that he was being blackmailed by the Cult. He  
6 stated that the Cult had confronted him with the fact of his  
7 prior drug conviction as a minor, a fact that was not public  
8 record;

9 d) I have personally seen Mr. Vallier in possession of  
10 large quantities of cocaine which he stated was intended for  
11 resale; and he also stated that selling drugs was his way of  
12 supporting his own habit and supplemented his income;

13 e) Mr. Vallier has stated that he had been a supplier of  
14 cocaine to other known enemies of the Cult while he was in law  
15 school;

16 f) Mr. Vallier stated before departing my good offices  
17 that he had been an "operative" for the Cult in obtaining  
18 information from inside the offices of Charles O'Reilly, through  
19 an old "cuddle" (as he called her), whom I recall he identified  
20 as "Mary", stating that she was one of the O'Reilly attorneys'  
21 secretary. Mr. Vallier further stated that he supplied "Mary"  
22 with cocaine. With respect to the O'Reilly operation,  
23 Mr. Vallier stated to me that he was "Run" by Warren McShane;

24 g) There currently exists a dispute between Mr. Vallier  
25 and myself as to fees earned. It took Mr. Vallier three times  
26 to pass the California Bar Exam.

27 15. Ms. Peti:



1           a)     Worked for me from April 1987, (the time when the  
2     Aznarans made an escape from a secret cult prison location in  
3     the desert known as "Happy Valley") until shortly before, the  
4     institution of this action. She was emotionally distraught, a  
5     heavy substance abuser, and possessed of an extreme weight  
6     problem. She was also a lover of Thomas Vallier with whom she  
7     spent the night during a visit to Oregon which we took in the  
8     Summer of 1987.

9           b)     I am within the last week , informed by a Mr. Waysman  
10    that she was a former secretary of his and a key witness in a  
11    disciplinary proceeding which resulted in the 1986 published  
12    case of Waysman v. State Bar of California, 224 Cal. Rptr. 101  
13    (Cal.1986), involving allegations of drinking and drug abuse.  
14    I am informed by Mr. Waysman, that Ms. Peti, worked for him only  
15    three weeks before running off with money and testifying to  
16    things she could have had no knowledge of.

17          c)     I now believe Ms. Peti, was recruited to infiltrate my  
18    organization as a plant at about the time of the criminal  
19    incarceration of Vicki Aznaran, in early 1987, by the Cult  
20    because of Peti's peculiar experience as witness in the Waysman  
21    case (see exhibits 17 & 20.)

22          d)     Prior to departing my offices, Ms. Peti had numerous  
23    financial misfortunes, was sued for divorce by her estranged  
24    husband, (the law clerk referred to in the Waysman case), and  
25    was heavily using alcohol and drugs (which she stated she  
26    obtained from Mr. Vallier, who she was regularly seeing after he  
27    left my employment).



1           16. As to Mr. Warren McShane, I state that he has informed  
2 me that he was a high ranking operative in the "G.O.", during  
3 the days which saw the events which resulted in the United  
4 States v. Hubbard convictions. His tendencies towards criminal  
5 behavior and disregard for the law were the subject of many  
6 complaints by me to Mrs. Vicki Aznaran prior to her incarceration  
7 in the desert by the Cult. It was this tendency to criminality  
8 that resulted in his removal from his post and apparently  
9 gave rise to his current grudge match against me. I was  
10 informed by Mr. McShane that he was running plants in the inner  
11 circle of one David Mayo and that he was "culling" confidential  
12 confessional folders of Cult members (known as "P.C. folders")  
13 to gain information that would be used against them as blackmail  
14 or for impeachment purposes. I personally observed this culling  
15 and objected to it.

16           17. As to Mr. Moxon, I state that:

17           Prior to his completing law school, he was one of numerous  
18 unindicted co-conspirators in the case of United States v.  
19 Hubbard.

20           18. Mr. Cooley (who in his last two outings for the Cult  
21 lost a \$39 million dollar verdict in Oregon and another \$30  
22 million verdict in L.A.) has personally ordered the destruction  
23 of evidence relating to Cult litigation in my presence. These  
24 orders were given to Warren McShane and Mark "Marty" Rathburn.

25           19. I was hired by Mrs. Aznaran in 1984 to represent the  
26 Cult in trade secret, copyright and trade mark litigation  
27 matters.



1           20. I am informed and therefore believe, that sometime in  
2 early 1987, Mrs. Aznaran was abducted and taken to a  
3 "Jonestown-like" camp known as "Happy Valley". As far as I knew  
4 she just disappeared. It was not until many months later that  
5 Vicki, a personal friend, found the courage to initiate contact  
6 with me.

7           21. Prior to speaking with Vicki, after her abduction, a  
8 number of extremely troubling occurrences happened involving my  
9 representation of the Cult; to wit:

10           a) Sometime in April or May of 1987 I was summoned  
11 to a meeting on the 4th floor of the Cult headquarters in L.A.  
12 and at that meeting were many high ranking officials of the Cult  
13 including, Linda Hamel (director of Covert Intel operations),  
14 "Marty" Mark Rathburn, and an indistinguished cast of others.  
15 The subject matter of the meeting was to be "the Catholic  
16 Conspiracy and Charles O'Reilly." At the meeting it was  
17 explained that Catholics were enemies of the Cult and that  
18 Charles O'Reilly was their best hit man. (O'Reilly had recently  
19 obtained a \$30 million dollar verdict against the Cult in  
20 Wollersheim and previously tried the Allard case). Mr. O'Reilly  
21 (whom I have personally sued for the Cult, obtaining an  
22 injunction against him in Federal Court), despite his human  
23 tendencies, remains one of the few lawyers in this country with  
24 the skill and courage to meet the Cult head on, beat it and not  
25 sell out. Since he didn't have a price, it was explained by  
26 Mr. Rathburn that he must be handled through blackmail. Three  
27 private investigators were present at the meeting. I do not  
28 remember their names. I and the others were told by "Marty"



1 Rathburn, that on the orders of David Miscavige (the successor  
2 the L. Ron Hubbard as the head of the Cult), that the medical  
3 records of O'Reilly were to stolen from the "Betty Ford Center"  
4 and another location in Santa Barbara, to show that he was using  
5 cocaine, discredit him, and possibly blackmail him into easing  
6 off on his 30 million dollar verdict now on appeal. I objected  
7 to this as illegal and an alternative plan was quickly arrived  
8 at to "settle my nerves". Within days, I informed the Cults'  
9 chief lawyer, John Peterson, that I wanted to substitute out of  
10 the cases in which I represented the Cult. Shortly thereafter  
11 Mr. Peterson died. I substituted out as quickly as possible  
12 thereafter.

13 b) I also became aware of numerous "cullings" of P.C.  
14 folders by Cult members. I was actually given P.C. folder data  
15 to prepare for depositions of former members. Again I objected.  
16 The confidential materials were put in "prep Packs". When I  
17 objected to this practice, I was told by Mr. McShane and a  
18 Mr. Ryerson that this was standard practice in the Cult. I  
19 again offered my resignation as their counsel. Within weeks,  
20 the prep packs were removed from my office by a team of Cult  
21 members headed by a Mrs. Joyce Van Dyke. Prior to the break-ins  
22 into my office, I received receipts for the prep packs as they  
23 were turned over to the Cult team. I have not been able to  
24 locate them.

25 c) There was also wholesale destruction of evidence,  
26 theft of documents from private persons and attempts to infil-  
27 trate the Court chambers of Judges Lilly and Swearingen.  
28



1           d) This is but the tip of the iceberg. Many of the  
2 documents in this Court's Jury Room show recent attempts by this  
3 Cult to infiltrate courthouses, U.S. Government contractors such  
4 as Honeywell in Phoenix, to find out what classified projects  
5 these contractors were getting from the "Rockefellers" and the  
6 "DOD" and other "enemies of mankind".

7           e) I was also informed of a Cult-organized group of  
8 vigilanties known as the "minutemen" who were to go beat up  
9 dissidents and had in fact done so. I retained no originals of  
10 any documents that belonged to the Cult, I simply retained  
11 copies, which I am permitted to do. The encrypting diskettes  
12 for the Cult computer, were turned over to them prior to the  
13 break-ins in my office.

14           f) I also became aware of a plot to obstruct Justice or  
15 at the least perpetuate a fraud on the Courts in the form of  
16 settlement agreements of numerous pieces of Cult Litigation,  
17 which required that the lawyers never take litigation against  
18 the Cult in the future, that no-one (lawyers or parties) testify  
19 against the Cult, and that all evidence and files be turned over  
20 to the Cult for destruction.

21           g) Additionally, I became aware that witnesses such as  
22 Bill Franks and others signed contracts to keep quiet about what  
23 they knew. In other words they were paid hush money.

24           22. I never engaged in the representation of Aznarans or  
25 Mr. Corydon, nor did I impart any confidential "privileged  
26 information to them." We have one thing in common, a common  
27 criminal enemy -- the Cult -- who the governments of this  
28 country have allowed to physically beat its citizens, to betray



1 their confidences, ignore their civil rights and use the  
2 Judicial System to Destroy them.

3 23. That I had a difficult time sleeping knowing what I  
4 knew, having represented this criminal Cult -- I readily admit.

5 24. From the time I wanted to substitute out of the Cult  
6 cases until present, the Cult failed to make payments for  
7 services rendered. A fee dispute arose, when questioned by Cult  
8 member Carol Martiniano about who would have facts to support my  
9 contentions regarding the fee dispute, I informed her Vicki and  
10 others would know. Within a few days Vicki called me to tell me  
11 that she had received threats from Earle Cooley on the phone,  
12 that she better not be remembering the facts the way she was  
13 stating them or she would be sued by the Cult. At that time  
14 Vicki informed me of the facts surrounding her incarceration and  
15 denial of medical treatment at "Happy Valley". I informed her  
16 that she had a potential statute of limitations problem, that I  
17 probably shouldn't represent her, but would help her find a  
18 lawyer. I told her that she had a place to stay if she wanted  
19 one -- my home. She, her husband and Ms. McRae came to my home,  
20 found a lawyer and sued. To this day, I haven't seen her full  
21 complaint, and no one in my office drafted any part of it.

22 25. It was my determination that I had no conflict of  
23 interest in the Aznaran matter, but in order to best serve the  
24 Aznarans' interests, they should find other counsel -- so the  
25 matter could be resolved on the merits, not by default or  
26 attrition.

27 26. As a result of Vicki's visit, I met Mr. Corydon,  
28 Vicki's friend. I began to gather evidence for my conflict with



1 the Cult since the storm clouds were gathering. I had read  
2 Mr. Corydon's Book, L. Ron Hubbard - Messiah or Madman, before  
3 meeting Mr. Corydon, found the book both frightening and  
4 interesting, and submit the same as exhibit 28. I recommend it  
5 to the Court's attention.

6 27. Most of the alleged facts set forth in the Declaratio  
7 of Peti are outright lies. It is true that Mrs. Peti worked fo  
8 the firm of Herzig & Yanny for a little more than a year. When  
9 she quit, she left in the middle of a business day and never  
10 returned, contrary to her statement that she came back to the  
11 firm from time to time and that I made damaging statements to  
12 her.

13 28. In addition to the above, it is also true that my  
14 office has copied the work performed on behalf of the plaintiff  
15 and the work performed by other offices to which our office  
16 responded on behalf of plaintiffs. We have retained those  
17 copies. It is further true that our office has retained the  
18 complete diskettes that contain the work that the Herzig & Yann  
19 firm did for the plaintiffs, most of which has been filed and i  
20 therefore subject to public inspection. I have also received  
21 communications from plaintiffs containing material which indi-  
22 cates that they were engaged in criminal activity. I retained  
23 copies of those documents in order to establish that these  
24 criminal activities are such as to constitute a waiver of the  
25 attorney-client privilege and also establish that this lawsuit  
26 and their conduct toward me in initiating it are a part of a  
27 common purpose and plan carried out by the plaintiffs against  
28 all those people who leave their employment or who leave their



1 church. It is necessary for me to retain those copies to  
2 properly defend myself in this action.

3 29. I have had no opportunity to get fully informed advice  
4 from my attorney, or from any attorney, as to what I should do  
5 with the copies that I formerly retained, which are now held by  
6 this Court. I believe that those documents will indicate that  
7 the plaintiffs have participated in a consistent conspiracy to  
8 obstruct justice and to perpetrate a fraud upon the Court and  
9 that by reason thereof, and by reason of the provisions of  
10 California Evidence Code §956, such information is not subject  
11 to any privilege whatsoever.

12 30. Addressing myself to certain of the specifics of the  
13 Dorothy Ann Peti Declaration, my comment is as follows:

14 At no time did I instruct Dorothy Ann Peti or anyone else  
15 in the employment of Herzig & Yanny to inflate the billable  
16 hours for the plaintiffs, or for any other clients of the  
17 office. With reference to Thomas R. Vallier, on numerous  
18 occasions, I informed Mr. Vallier that he was either incompetent  
19 or had lost sight of the true hours spent on the job, and that I  
20 could not bill the client the hours shown on his timesheets, and  
21 I drastically reduced the hours billed to the client.

22 31. It is absolutely false that I charged Lisa Wilske's  
23 time at other than her normal rate, which ran from various time  
24 at \$40 per hour, \$75 per hour, and later, when she finished law  
25 school and became an attorney, at \$125 per hour.

26 32. It is not true that Lisa Wilske or anyone else ever  
27 asked Ms. Peti to attend any proceeding at the home of Joseph A.  
28 Yanny and give an "impression" of conversations with any



1 individuals. Most of the time that Ms. Peti was "at" my home  
2 was actually spent at a local bar called the "Poopdeck" and, on  
3 at least one of the days that she refers to, she called us to  
4 come and get her because she was so drunk that she was afraid to  
5 leave the bar by herself. On one of those occasions, she bought  
6 me a shirt containing an advertisement of the bar, which is  
7 still owned by Declarant.

8 33. I knew Vicki Aznaran because she had been the presi-  
9 dent of Religious Technology Center, one of the plaintiffs  
10 herein, during the time that I represented the plaintiffs.  
11 After Ms. Aznaran left the Church, and after I terminated my  
12 professional relationship with plaintiffs, I had numerous  
13 conversations with her, and she advised me that she had termi-  
14 nated her relationship with plaintiffs and that she had been, in  
15 effect, kidnapped and taken to the desert, deprived of medical  
16 care, forced to go on marches, and finally was able to escape.  
17 She said that she was going to come over and discuss the matter  
18 with me. During one of the weekends at my home, in addition to  
19 the social pleasantries that were exchanged, she asked me if I  
20 could represent her in suits against the Church; I stated that I  
21 would have to review the matter.

22 34. At that time, I had heard of Mr. Corydon, but I had  
23 not met him until he came to visit with Vicki at my home in  
24 Hermosa Beach. I had known that he written the book L. Ron  
25 Hubbard -- Messiah or Madman?, and that the plaintiffs were  
26 extremely angry with him over writing the book, but I knew  
27 little about him. At no time did Mr. Corydon tell me he did not  
28 have financial resources to hire an attorney. At no time did I



1 discuss those lack of funds or Lisa Wilske's prior participation  
2 with the plaintiffs, nor did I ever offer to have Ms. Wilske, or  
3 anyone in my office, represent Mr. Corydon. At no time did I  
4 have Lisa Wilske or Richard Wynne or anyone else in my office  
5 research any issues concerning the Aznaran Complaint. The only  
6 research that was done was by Lisa Wilske and Mary Grieco as to  
7 the propriety or possibility of our firm representing someone  
8 adverse to the plaintiffs. For many reasons, I decided it would  
9 be inappropriate to represent the Aznarans.

10 35. Neither I nor anyone else in the office of Herzig &  
11 Yanny to my knowledge drafted any portion of the planned or  
12 actual Aznaran Complaint, and it is an absolute lie (as is most  
13 of the Declaration of Peti) that I was present during the filing  
14 of that Complaint. It is also not true that I imparted any  
15 confidential material, or any material whatsoever, to the firm  
16 of Cummins & White or to any of its members to assist them in  
17 the preparation of the Aznaran Complaint.

18 36. It is true that a stack of documents were brought to  
19 my home on one of the dates referred to in the Peti Declaration.  
20 These documents related to the break-in of government offices by  
21 agents of the plaintiffs in 1977 or 1978 which resulted in an  
22 action brought by the United States against the plaintiffs, and  
23 resulted in nine of the top executives of the Cult, including  
24 the wife of L. Ron Hubbard, being convicted and sent to spend  
25 time in the Federal penitentiary.

26 37. I felt they were relevant to my impending suit with  
27 the Cult in light of the numerous break-ins to my quarters. The  
28 fanciful story told by the petitioner in paragraph 21 on pages 6



1 and 7 of Ms. Peti's Declaration is not only false, but it is  
2 intended to create an impression which Ms. Peti knows is false.  
3 The facts of that matter are absolutely to the contrary.  
4 Ms. Peti is well aware that the motion she refers to was pre-  
5 pared by the Church at their own offices and was brought to me  
6 by Thomas Vallier at Court when I was present during another  
7 matter. I read the documents and refused to sign them. I said  
8 that they were wrong and were not to be served. I told  
9 Mr. Vallier that they were wrong and were not to be served, and  
10 he left. If I had known that they had been served, I would  
11 certainly have sent out a "notice of non-hearing." I first  
12 learned that the document had been served when I received the  
13 motion for sanctions. I inquired of Ms. Peti, and she told me  
14 that she had received a call from the Church and that they had  
15 told her that I had advised them that she should serve the  
16 documents. I told her that that was absolutely false. The  
17 Church insisted that I oppose the motion for sanctions and I  
18 did.

19 38. At no time did I lecture or otherwise inform Corydon  
20 or anyone else concerning the actual facts about the plaintiffs'  
21 "weaknesses." I was advised and learned of some of those  
22 weaknesses, but that knowledge was one of the things that  
23 persuaded me not to represent the Aznarans in their suit against  
24 the plaintiffs.

25 39. It is true that, after Vicki Aznaran told me the facts  
26 of her imprisonment by the plaintiffs, I told her that she might  
27 have a statute of limitations problem and that if she was going  
28 to bring an action she had better be careful of the time



1 limitation. I also told her that I would recommend some  
2 attorneys she could go to. She told me that there had been  
3 numerous agreements made between the Church and numerous attor-  
4 neys and witnesses wherein they had agreed not to represent  
5 anyone who had an interest adverse to the Church and the wit-  
6 nesses agreed not to testify for anyone who had a cause of  
7 action against the Church.

8 40. I have never seen the full Aznaran Complaint. I am  
9 not aware of it ever coming to the office of Herzig & Yanny. I  
10 was not aware that this was a possibility until my attorney read  
11 that portion of the Ms. Peti statement to me on June 26, 1988,  
12 paragraph 24 of the Peti Declaration. Under no circumstances  
13 did I assist in the preparation of any Complaint by Aznaran  
14 against the Church.

15 41. The Declaration of Vicki Aznaran concerning the  
16 retainer fee dispute that I presently have with the plaintiffs  
17 came in some time prior to any meeting I had with the Aznarans.  
18 That Declaration was taken from my office during one of the many  
19 break-ins to my office following my termination as attorney for  
20 the Church. During one of those break-ins, which was accom-  
21 plished by the use of a crowbar, my individual office was broken  
22 into as well.

23 42. Paragraph 28 of Ms. Peti's Declaration is absolutely  
24 false, and Ms. Peti must know that it is false. Ms. Peti had  
25 nothing to do with the billing at our office. If she had taken  
26 the time to make an investigation of that billing, she would  
27 have discovered that all of the billing for Lisa Wilske, whether  
28 for the Church or any of the clients, was billed at Ms. Wilske's



1 regular rate, and was never billed at Yanny's higher partner  
2 rate.

3 43. The allegations of paragraph 31 in Ms. Peti's Declara-  
4 tion are vicious and false, and are nothing but deliberate lies  
5 intended to place me in a bad light before this Court.

6 44. At this point, I have not had sufficient opportunity  
7 to review the extensive documentation filed by the Cult in  
8 support of the pending Application.

9 45. As to the Declaration of Mr. Vallier, I can only state  
10 that the contents of paragraph 2, appear to be generally correct  
11 but the contents of paragraph 3 and 4 are out right perjury. As  
12 to paragraph 5, I can only state that there was a break-in into  
13 my offices, I have no knowledge of what others believe or  
14 stated, that I staged no break-in. The balance of Mr. Vallier's  
15 paragraph 5 is a lie. As to paragraph 6 and 7 of Mr. Vallier's  
16 Declaration, I can only state that both Peti and Vallier (who  
17 are now on the Cult's payroll) are Liars and the implications  
18 are false. As to paragraph 8, I did withdraw as counsel and  
19 executed substitution of attorney papers which were delivered to  
20 the Cult representatives for filing in Court. As to the con-  
21 tents of paragraphs 9, 10, 11, 12 and 13, I can only state that  
22 there was no "conspiracy," and I have no knowledge of Mr.  
23 Vallier's conversations with Messrs. Wynne and Grabowski, and  
24 that his alleged conversation with me is a figment of his  
25 tortious imagination. The contents of paragraph 14 are also  
26 false.

27 46. As to the contents of the Declaration of Warren  
28 McShane, I can only state that as to:



1 a) paragraph 3, 4, 5, 6, - the contents are  
2 false as far as I know. I never met McShane  
3 until 1984.

4 b) The contents of paragraph 7 appears to  
5 be generally correct;

6 c) I have no recollection of the allega-  
7 tions made in paragraph 8 or 9 of the McShane  
8 Declaration, and all my files are with this  
9 Court;

10 d) The contents of paragraph 10 appears to  
11 be generally correct, except that the dates,  
12 and I did represent the Cult in the Litiga-  
13 tion specified in paragraph 11.

14 e) As to paragraph 12 and 13, I can only  
15 state that Vicki Aznaran was and is my friend  
16 (a concept you will not find discussed in the  
17 Cult writings of L. Ron Hubbard). In 1985, I  
18 was given a \$150,000. non-refundable  
19 retainer, "For 1985" not to be applied  
20 against billings, as an inducement to begin  
21 working nearly full time for the Cult as  
22 "co-ordinating attorney". I did submit bills  
23 regularly and none of the 1985 retainer was  
24 applied against billings. The remainder of  
25 paragraphs 13, 14, 15, 16 and 17 are untrue  
26 except that I did often reduce my bills to  
27 compensate for the quality of the work done  
28



1 by Vallier, who needed three tries to pass  
2 the Bar Exam.

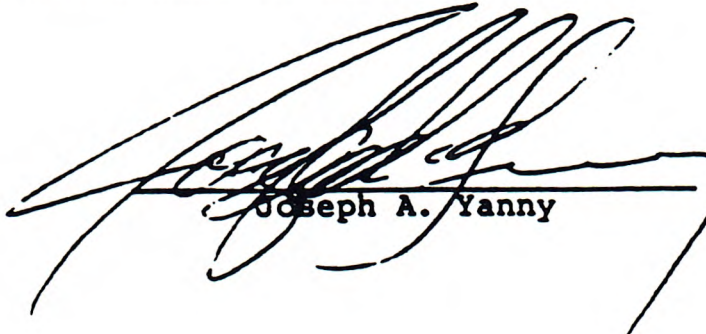
3 f) As to the contents of paragraphs 18-24,  
4 I can only state that I have had correspon-  
5 dence with Mr. Weitzman, but the balance is  
6 either untrue, distorted, or not in my memory  
7 banks or records.

8 At no time have I ever conspired with anyone to disclose,  
9 nor have I disclosed, nor do I intend to disclose any privileged  
10 information pertaining to the Plaintiffs in this lawsuit which  
11 was obtained during the course of the prior attorney-client  
12 relationship between Plaintiffs and Defendants. I do not intend  
13 during the course of this lawsuit, nor at any time hereafter, to  
14 aid, counsel, or otherwise participate in the legal representa-  
15 tion of Vicki J. Aznaran, Richard Aznaran, and Bent Corydon  
16 regarding their lawsuits with Plaintiffs.

17 I hereby declare under penalty of perjury under the laws of  
18 the State of California that all of the above is true and  
19 correct except as to those matters stated on information, and as  
20 to those matters I believe them to be true.

21 Executed at Los Angeles, California on this 13th day of  
22 July, 1988.

23  
24  
25  
26  
27  
28



Joseph A. Yanny

ou



ORIGINAL EXHIBITS A & B & 1thur 26 in Support of Dec.

of Joseph A. Yanny

E774



A

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# EXHIBIT 1 MISSING

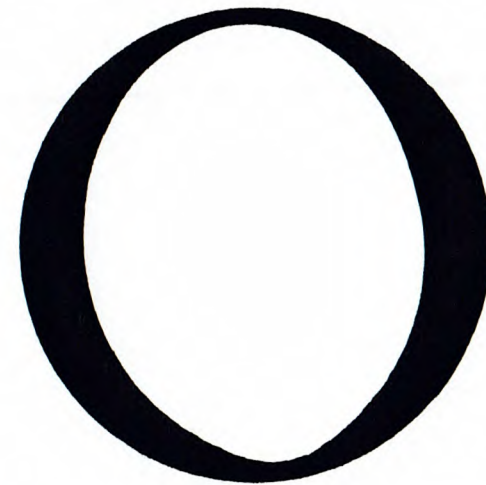
ARTICLE WRITTEN BY L. RON HUBBARD  
DESCRIBING HOW TO USE A LAWSUIT  
TO HARASS OPPONENTS &

INTERNAL SCIENTOLOGY DOCUMENT  
PART OF U.S. V. MARY SUE HUBBARD,  
CR. NO. 78-401 COURT RECORD



MAGAZINE ARTICLES ON

LEVEL



CHECKSHEET

BY L. RON HUBBARD



## Dissemination of Material

The dissemination of materials of Scientology is a problem of comparable stature to the use of techniques on a preclear in an auditing session. Just as you would not process a preclear with heavy processes when all he could take might be ARC Straight Wire, thus you would not issue Scientology materials of considerable weight to people incapable of assimilating them.

The immediate result of the issuance of materials not intended for that audience is to produce a state of confusion in the minds of that audience regarding Scientology. Here we have no question of talking down to people. Here we have no question of 'watering' our material, but we do have a question of disseminating Scientology. If we do it properly, then Scientology will be very broadly known. If we do it improperly it will stop in its tracks, and be known, if at all, as a confusion.

When materials are issued above the acceptance level of an audience, a confusion results. A confusion is the antithesis of a flow. Any communication resulting in a confusion then brings about an eddy or tumbling of particles rather than their spread. And a confusion at length becomes a mystery.

Part ten of the Code of a Scientologist says: "I pledge myself to engage in no unseemly disputes with the uninformed on the subject of my profession." This is an immediate injunction not to start an eddy of confusion. The employment of Scientology to the greatest good of the greatest number of Dynamics does not include using it knowingly or unknowingly to confuse hearers.

An outline of the communication lines of Scientology follows:

1. The General public to the general public.
2. Scientologists to the general public.
3. Member HASI to member HASI.
4. Trained Scientologist to a member of the HASI.
5. Member of the HASI to a preclear.
6. Trained Scientologist to a preclear.
7. Trained Scientologist to a trained Scientologist.
8. HASI to membership.
9. HASI to trained Scientologist.
10. HASI to the general public

## 1. GENERAL PUBLIC TO THE GENERAL PUBLIC

There are several things we would like the general public to say to the general public about Scientology. The first of these is that we would like the general public, when it sees an individual or group problem, to be quite certain that the proper thing to do is for that individual or group to consult a Scientologist. For instance, if somebody is having headaches, we would like his friends to come to the obvious solution that this person should see a Scientologist or should join a group undergoing processing.

The next on this communication line is that Scientology does not pose any threat, that Scientologists are good citizens, and that they can be trusted with problems of a private and confidential nature, or with problems dangerous to other people, such as the problem of criminality. Another frame of mind we would like to see the public have and register is that people attacking Scientologists have something wrong with them (and if you could meet any such people personally you would see that this is no more than truth). As a subdivision of this, the actual substance of communication about what Scientology is, from the general public to the general public, should be that Scientology says that good health and immortality are attainable. That it is something compounded out of all Man knows of the subject of Man, and that people are living units operating bodies, rather than bodies, and that this living unit is the human soul. Given this much communication line, the general public can embroider enormously, and unless a person in the general public can express his opinions, and unless the subject gives him a chance to express his own opinions, and so let HIM be interesting, he will not talk about the subject. Thus the data in the general public should give individuals a chance to be interesting, by knowing no more and no less than the above. We are not interested in sensationalism personalities, or the complexity of Scientological methodology being discussed by the general public. As a subdivision of this, we do not want Scientology to be reported in the press, anywhere else than on the religious page of newspapers. It is destructive of word of mouth to permit the public presses to express their biased and badly reported sensationalism. Therefore we should be very alert to sue for slander at the slightest chance so as to discourage the public presses from mentioning Scientology. What the newspapers say is not word of mouth. As an example of this, how many minutes today have you spent in discussing current events? **NEWSPAPER REPORTERS WRITING ARTICLES ON SCIENTOLOGY DO NOT EXPRESS SCIENTOLOGY.** Scientologists should never let themselves be interviewed by the press. That's experience talking!

As a subdivision of general public to general public we have the problem of the professions which might consider Scientology to be antipathetic to them, amongst these would be psychologists and medical doctors as well as psychiatrists. These persons are entirely in error when they express the opinion that Scientologists are against



22 per cent. of the public, benefit. Therefore, any practice or art can always achieve 22 per cent. recovery in their patients. It is when we better this 22 per cent. that we are being efficient. We have no more quarrel with a psychologist than we would have with an Australian witch-doctor. We have no quarrel with a psychiatrist any more than we should quarrel with a barbarian because he had never heard of nuclear physics. And as for the medical doctor, we know very well that modern medical practice, having lately outgrown phlebotomy, has come of age to point where it can regulate structure in a most remarkable and admirable way. In Scientology we believe a medical doctor definitely has his role in a society just as an engineer has his role in civil government. We believe that a medical doctor should perform emergency operations such as those made necessary by accidents; that he should perform orthopaedics; that he should deliver babies; that he should have charge of the administration of drugs; that his use of antibiotics is beneficial; and that wherever he immediately and curatively addresses structure he is of use in a community. The only place we would limit a medical doctor is in the field of treatment of psychosomatic medicine, where he has admittedly and continuously failed, and the only thing we would ask a medical doctor to change about his practice is to stop taking money for things he knows he cannot cure, i.e., spiritual, mental, psychosomatic, and social ills.

With regard to psychologists, medical doctors, and psychiatrists, then, what would one say in talking with them? But again we have section 10 of the Code of the Scientologist. You wouldn't expect this psychologist, or psychiatrist, or medical doctor to get into an argument with you on how to get rats or find their way through mazes, how you would set a tibia, or what voltage you would put on an electric shock machine. Therefore, and equally, do not permit yourself to be put in the situation where you are discussing privately or in public, the methodologies of your wisdom. The attitude of a Scientologist toward people of these professions should be: "I have my techniques. It took me a long time to learn them just as it took you a long time to learn yours, and I am not going to try to make a minister out of you, and you are not going to try to make a medical doctor (psychiatrist, psychologist) out of me. I am an expert instructor only where it is intimately involved with the human spirit. I can produce my effects. You can produce yours. In view of the fact that you do not pretend to operate in the field of the human spirit, and I do not pretend to operate in the field of structure, I do not see how there can be any discussion. But things that I can't handle in structure when called upon I will be very happy to refer to you, and I shall expect that when matters of the spirit come into question you will have enough understanding of life, where we are all specialists, to refer them to me." A quiet explanation of this character will do a great deal to place you as a professional man in their realm of understanding of professional men.

in a hospital or an institution from some malady which balked the efforts of the professional men in charge of it, and should you ever be "called upon the carpet" for having "interfered" with the progress of a case, you should be extremely dismayed, and act it, to find yourself in the presence of barbarians who do not believe in the power of prayer, in the will of God, or the promises of Jesus Christ. And you should point out that, whereas the body was in their keeping, they did not at any time care to take purview of the human soul. And if anything has occurred because the soul, in your province, then reacted upon the body, you believe that they are unwilling to admit the will of God in their treatment of human beings, and if this is the case you now, while you are being addressed by such people, discover yourself to be in a strange place where men pretending to be Christians doubt God, the Son of God, and the power of prayer. Your entire address to such people, in such a situation, publicly or privately, should be entirely overt, accusative, and not at any time apologetic. And you should immediately make it your business to place this matter before the proper authorities, that people are in charge of an institution here, are not Christians, and do not believe in God, and you should inform your accusers that you are going to do so.

Should you ever be arrested for practicing Scientology, treating people, make very sure, long before the time comes, that you have never used drugs or surgery, and that you have never prescribed a diet, or vitamins, and when that time might come, make very sure that you immediately and instantly, within two or three hours after your receipt of the warrant, have served upon the signer of that warrant, a personal civil suit for \$100,000.00 damages for having caused the arrest of a Man of God going about his business in his proper profession, and for having brought about embarrassing publicity and molestation. Place the suit and WIRE THE HASI IMMEDIATELY. Make the whole interest during the entire time of such an unfortunate occurrence the fact that the signer of such a warrant, who would ordinarily be a medical doctor in charge of the medical department of some city, had dared fly in the teeth of religion. And use what is necessary of the earlier passage above to drive the point home. DO NOT simply fall back out of communication if you are attacked, but attack, much more forcefully and artfully and ardently. And if you are foolish enough to have an attorney who tells you not to sue, immediately dismiss him and get an attorney who will sue. Or, if no attorney will sue, simply have an HASI suit form filled out and present it yourself to the county clerk in the court of the area in which your case has come up.

IN ALL SUCH CASES OR ARREST FOR THE PRACTICE OF SCIENTOLOGY, THE HASI WILL SEND A REPRESENTATIVE AT ONCE, BUT DO NOT WAIT FOR HIS ARRIVAL TO PLACE THIS SUIT. THE SUIT MUST ALREADY HAVE BEEN FILED WHEN THE HASI ATTORNEY ARRIVES.



In other words, do not, at any moment leave this act unpunished, for, if you do you are harming all other Scientologists in the area. When you are attacked it is your responsibility then to secure from further attack not only yourself but all those who work with you. Cause blue flames to dance on the court house roof until everybody has apologized profusely for having dared to become so adventurous as to arrest a Scientologist who, as a minister of the church, was going about his regular duties. As far as the advances of attorneys go that you should not sue, that you should not attack, be aware of the fact that I, myself, in Wichita, Kansas, had the rather interesting experience of discovering that my attorney employed by me and paid by me, had been for some three months in the employ of the people who were attacking me, and that this attorney had collected some insignificant sum of money after I hired him, by going over to the enemy and acting upon their advice. This actually occurred, so beware of attorneys who tell you not to sue. And I call to your attention the situation of any besieged fortress. If that fortress does not make sallies, does not send forth patrols to attack and harass, and does not utilize itself to make the besieging of it a highly dangerous occupation, that fortress may, and most often does, fall.

The DEFENSE of anything is UNTENABLE. The only way to defend anything is to ATTACK, and if you ever forget that, then you will lose every battle you are ever engaged in, whether it is in terms of personal conversation, public debate, or a court of law. NEVER BE INTERESTED IN CHARGES. DO, yourself, much MORE CHARGING, and you will WIN. And the public, seeing that you won, will then have a communication line to the effect that Scientologists WIN. Don't ever let them have any other thought than that Scientology takes all of its objectives.

Another point directly in the interest of keeping the general public to the general public communication line in good odor: it is vitally important that a Scientologist put into action and overtly keep in action Article 4 of the Cole: "I pledge myself to punish to the fullest extent of my power anyone misusing or degrading Scientology to harmful ends." The only way you can guarantee that Scientology will not be degraded or misused is to make sure that only those who are trained in it practice it. If you find somebody practicing Scientology who is not qualified, you should give them an opportunity to be formally trained, at their expense, so that they will not abuse and degrade the subject. And you would not take as any substitute for formal training any amount of study.

You would therefore delegate to members of the HASI who are not otherwise certified only those processes mentioned below, and would discourage them from using any other processes. More particularly, if you discovered that some group calling itself "precept processing" had set up and established a series of meetings in your area, that you would do all you could to make things interesting for them. In view of the fact that the HASI holds the copyrights for all such material, and that a scientific organization of material

can be copyrighted and is therefore owned, at least that could be done to such an area is the placement of a suit against them for using materials of Scientology without authority. Only a member of the HASI or a member of one of the churches affiliated with the HASI has the authority to use this information. The purpose of the suit is to harass and discourage rather than to win.

The law can be used very easily to harass, and enough harassment on somebody who is simply on the thin edge anyway, well knowing that he is not authorized, will generally be sufficient to cause his professional decrease. If possible, of course, ruin him utterly.

A D.Sca. has the power to revoke a certificate below the level of D.Sca. but not a D.Sca. However, he can even recommend to the \*CECS of the HASI that D.Scas. be revoked, and so any sincere Scientologist is capable of policing Scientology. This is again all in the interest of keeping the public with a good opinion of Scientology, since bad group processing and bad auditing are worse than bad publicity and are the worst thing that can happen to the general public to general public communication line.

The best thing that can happen to it is good auditing, good public presentation, and a sincere approach on the subject of Scientology itself. Remember, we are interested in ALL treatment being beneficial, whether it is Scientology or not. For bad treatment in any line lowers the public opinion of all treatment.

In addressing persons professionally interested in the ministry, we have another interesting problem in public presentation. We should not engage in religious discussions. In the first place, as Scientologists, we are gnostics, which is to say that we know what we know. People in the ministry ordinarily suppose that knowings and knowledges are elsewhere resident than in themselves. They believe in belief and substitute belief for wisdom. This makes Scientology no less a religion, but makes it a religion with an older tradition and puts it on an intellectual plane.

Religious philosophy, then, as represented by Scientology, would be opposed in such a discussion to religious practice. We are all-denominational rather than non-denominational, and so we should be perfectly willing to include in our ranks a Moslem, or a Taoist, as well as any Protestant or Catholic, while people of the ministry in Western civilization, unless they are evangelists, are usually dedicated severely to some faction which in itself is in violent argument with many other similar factions. Thus these people are ready to argue and are practiced in argument, and there are more interpretations of one line of scripture than there are sunbeams in a day. Beyond explaining one's all-denominational character, explaining that one holds the Bible as a holy work, one should recognize that the clergy of Western Protestant churches defines a minister or the standing

\*Committee for Examinations, Certification and Services.



B

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GC 183

7 October 1971

To all

A/Gs

D/S L...

PROs

Bur 4s

RE: BOOKS & ENTIRETA WRITTEN ABOUT SCIENTOLOGY  
BT SPK

In the UK, the following legal actions have been taken on entireta books which have been written about Scientology.

1. Saturn Slaves - this was a book all about Charles Manson and hippie cults in California. In several places, throughout the book, Charles Manson was mentioned as a former Scientologist (untrue) and it was alleged that he got his start with Scientology etc.

The publishers of the book were sued for libel -- they did not serve a defence but instead asked for settlement. It was agreed that they would pay us £100 damages, together with the costs of the action. They also agreed to make an apology in open court and to discontinue publication and sales of the book.

2. A psychologist by the name of Dr. Christopher Evans was writing a book entitled "20th Century Cults". Legal started writing to him and his publishers and later his lawyers. No proceedings were started because the book had not been published. However, endless letters were sent to and fro over a period of about a year, during which time it was made clear to the publishers and their lawyers that if they published the book, they would have to fight a legal action, which would lose them money.

Finally the publishers lawyers wrote to us to say that there was no point in continuing the correspondence because the publishers had now decided not to publish the book. As of this date the book has not been published.

3. C. H. Rolph, (small time author and journalist), was commissioned by the NAMH U.K. to write a book on the subject of the NAMH conflict with Scientology, from their viewpoint. PRO got in touch with Rolph - Rolph came down to SH and there were a series of friendly letters. Rolph finally submitted his manuscript to PRO but, in spite of the friendly visits, it turned out that he was just a NAMH lack and had written an attack.

Legal wrote to him and his lawyers, and pointed out that publication would be a contempt of court (because of other legal actions which we have against the NAMH). The book has not been published.

4. "Scientology, what it is - what it does" by Rev. Morris Burrell was the first book published in the UK, solely on the subject of Scientology. Burrell had been in comm with PRO and a long series of letters had passed between them. But once again, the book when published turned out to be hostile. The front cover of the book contained the Scientology double triangle and our first thought was to begin legal proceedings for infringement of trademark. However, on reading the book, it was discovered that Burrell had mentioned a number of libel actions in which C of S was engaged and had commented upon them.



Thus, being a contempt of court, legal moved the court for an order "that Morris C. Burrell do stand committed to Her Majesty's Prison at Brixton and that the publishers may be so committed for their several and respective contempts".

So, legal took them to Court, and the Judge found that the book was a contempt of court. So the book was drawn from publication without any copies having been sent to the public.

The latest book is by Cyril Vosper called "The Hindbenders", a stupid bit of matter. A preview of the book was sent out by the publishers, and PRO was alerted by a phone call from a TV station, who wanted a confrontation on TV with Cyril Vosper. This gave the G.O. 24 hours to stop the book, the TV confrontation and attendant bad publicity.

The book contained numerous quotes from Scientology books and policy letters etc and contained some data which Vosper had learned on the Solo Course. Legal proceedings were brought on the basis of breach of copyright and breach of confidential relationship (meaning putting in details of the Solo Course). As time was short, PRO did a superb job of getting data, PRO did a superb job of stalling TV, and legal went round to the Judge in the evening at his own home, to ask for an injunction. (An injunction is a Court order stopping a person from doing a particular act). In this case the injunction was to prevent the book from being sold or distributed. PRO went down to the TV station, to be ready to appear, in case the injunction was not obtained. The programme announcer had already made his introductions on Cyril and his book, when the phone rang in the studio, and our lawyer informed the producer that the injunction had been obtained. The announcer was forced to apologize to the viewers, and PRO handled the resultant tension after the programme had not gone on, with a drunken Vosper and furious producer.

The injunction was Ex parte (the other side was not present when it was obtained) and 3 weeks later legal went before the Court again for a contested hearing, to see whether the injunction should be continued or not. Legal won on both counts of copyright and breach of confidence. The other side now have 14 days in which to appeal.

The point of relating these actions is to indicate that the following countries have similar laws to Britain:

New Zealand

Australia

South Africa

Canada

There is no acceptable justification in these countries for no action being taken against the publishers and authors of entia Books. The G.O. has to act fast, effectively and with imagination. The skill required is in

- 1) Having the brains to see a possible course of action, no matter how unlikely.
- 2) Having the necessary organisation to start that action immediately and bring it to a point of confrontation and decision.  
(The longer the delay, the greater the chance of failure).



- 3) Legal U.S. wisdom, if ever, assesses its chances of winning before commencing action. Its ability lies in getting the action into court fast, without a Q&A on the chances of winning. No-one can accurately assess in advance the chances of winning or losing, as this is a matter of individual lawyers, individual judges, how many are breaks the judge had that day, the particular circumstance of the particular case which strikes the Judge and good fortune. Good fortune never strikes you in Court, unless you are in Court.
- 4) Legal U.K. has been in courts more often in the past 3 years than the rest of the Scientology world combined. They have won more cases and lost more cases than anywhere else. They lost cases they were sure they would win, and won cases they were sure they would lose. The losses did not hurt us, and the successes established an iron clad ethics presence, which has probably prevented more entheta than we will ever know about (B4 feedback lines confirm this).
- 5) Do not worry about whether you will win or lose, but direct all effort and concentration on the legal technicalities required to achieve a legal confrontation.
- 6) It is always technically possible - though sometimes difficult, to get into Court. The most difficult part is in forcing your legal team, especially outside lawyers, to get this done, in spite of their terror of losing. It requires intention, determination and forceful persistence to get this done. Not legal genius.

#### Re USA

In America, where Freedom of Speech includes freedom to malign with impunity, except for old ladies and crippled men, much more imagination is required. Because of the Constitution of America, and case law on libel, inclusive of recent Supreme Court decisions, it is impossible to prevent publication of libel. Attempts to prevent a book being published are called pre-publication censorship, and are extremely unpopular legally. However, where U.S. legal has been successful is prior to Court appearances and actual trial in effecting settlement.

The button used in effecting settlement is purely financial. In other words, it is more costly to continue the legal action than to settle in some fashion. Using this, legal U.S. usually moves for retraction of the libel and/or publication of a correction or Scientology viewpoint.

Therefore, it is imperative that legal US Dev-T his opponents and their lawyers with correspondence (a lawyer's letter costs approx \$50), phone calls (time costs), interrogatories, depositions and whatever else legal can mock up.

One of the bright spots of US legal is that even if you lose you don't pay your opponent for his lawyers fees. Therefore the cost of any legal action is small by comparison with Commonwealth Countries, where the loser pays everything.

N.B.: Any legal action on entheta publications needs the close co-ordination of PR, Legal and B4. One should carry forward without being afraid of being labelled litigious. We want the reputation that we use the laws of



to uphold our legal and civil rights.

Legal terminals have only just been set up although the laws are different from Commonwealth and there are actions which can be taken if they are reached and forced through.

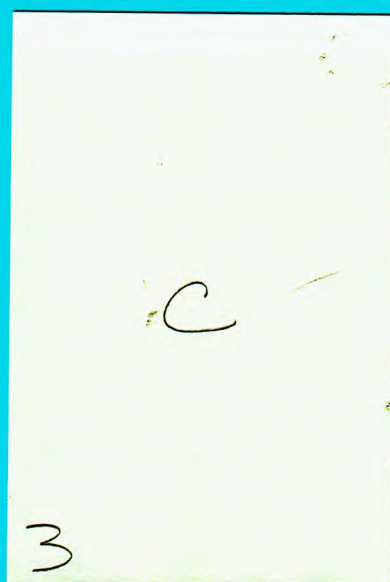
Up to this point, the G.O. has been entirely swayed by our wog lawyers negative opinions but legal in terms should note the message in this Guardian order.

The message is that in combatting unethical articles and books, legal should be aggressive, fast, persistent and untiring.

Every skirmish should be treated like a major battle.

Jane Kember  
Guardian World Wide







58 Cal.App.3d 439

Cites. App. 129 Cal.Rptr. 707

58 Cal.App.3d 439

the statement, she would not have considered it as a statement against either her pecuniary or proprietary interest.

[15] Appellants intimate also that Marian's hearsay statement was of a type that ought to be admissible against her adopted children as her successors in interest. If a hearsay statement qualifies as a declaration against interest under Evidence Code section 1230, it becomes admissible against any party to the litigation to the extent that it is relevant to an issue presented. Perhaps appellants have in mind another section of the Evidence Code, to wit, Evidence Code section 1225. Section 1225 makes admissible against a party a statement of a party's predecessor in interest which tended to impugn the interest of the predecessor at the time the predecessor held title and made the statement. The basis for reliability of this hearsay exception is that statements of a declarant, made while he has title to property and which are in disparagement of that title, are statements against the interest of the declarant.

[16] But Evidence Code section 1225 is not applicable in the case at bench, since Marian's adopted children, John and Elizabeth, as parties to the litigation, are not asserting an interest or right to the trust property which is dependent upon the prior right to this property of Marian, the declarant. The adopted children are not successors in interest to the interest which Marian had in the trust property. The interest of Marian's children is derived from the will of Huntington, just as Marian's own interest was derived from the will of Huntington. The children take their interest through Huntington and not through their mother, Marian, whose interest was solely that of a life beneficiary.

The judgment appealed from is affirmed.

FILES, P. J., and JEFFERSON, L., concur.

Hearing denied: WRIGHT, C. J., did not participate.

\* Retired Justice of the Court of Appeal, assigned by the Chairman of the Judicial Council.

L. Gene ALLARD, Plaintiff, Cross-Defendant and Respondent,

1435

v.  
CHURCH OF SCIENTOLOGY OF CALIFORNIA, Defendant, Cross-Complainant and Appellant.

Civ. 45562.

Court of Appeal, Second District,  
Division 2.

May 18, 1976.

Hearing Denied July 15, 1976.

Plaintiff brought action against defendant church for malicious prosecution, and defendant brought cross complaint for conversion. The Superior Court, Los Angeles County, Parks Stillwell, J., entered judgment on verdict awarding plaintiff compensatory and punitive damages and, from a judgment for plaintiff and against defendant on cross complaint, defendant appealed. The Court of Appeal, Beach, J., held that defendant was not deprived of a fair trial on ground of prejudicial misconduct by plaintiff's trial counsel, that procedure and verdict below did not constitute a violation of defendant's First Amendment free exercise of religion, that question as to whether inferences could be drawn that defendant, through its agents, was carrying out its own policy of fair game in its criminal actions against plaintiff was for jury, that trial court's voir dire of prospective jurors was not improper by reason of alleged failure to question jurors as to their religious prejudices or attitudes, that it was not prejudicial error to direct jury, in its assessment of malicious prosecution claim, to disregard evidence that plaintiff stole travelers' checks from defendant, that award of \$50,000 compensatory damages was proper, and that plaintiff was entitled to punitive damages, but that award of punitive damages would be reduced to \$50,000 under circumstances.

Affirmed as modified.



**1. Appeal and Error — 930(1), 989**

When the evidence on appeal is very conflicting, the Court of Appeal must relate those facts supporting the successful party and disregard the facts to the contrary.

**2. Trial — 131(1), 133.6(1)**

Though several of individual statements and questions made by plaintiff's trial counsel were inappropriate, where there often were no objections by counsel for defendant when an objection and subsequent admonition would have cured any defect, or there was an objection and trial court judiciously admonished jury to disregard comment, there was no prejudicial conduct by plaintiff's trial counsel, and defendant was not deprived of a fair trial.

**3. Estoppel — 63**

A party whose reprehensible acts are the cause of harm to another and the reason for the lawsuit by the other cannot be heard to complain that its conduct is so bad that it should not be disclosed.

**4. Religious Societies — 31(5)**

Evidence of policy statements and other peripheral mention of practices of defendant church was admissible in action for malicious prosecution where members of church were allowed to trick, sue, lie to, or destroy "enemies" and, if plaintiff was considered to be an enemy as claimed, policy was relevant to credibility issues.

**5. Constitutional Law — 84**

Introduction of evidence of policy statements and other peripheral mention of practices of defendant church did not constitute a violation of defendant's First Amendment free exercise of religion in action for malicious prosecution where members of church were allowed to lie, sue, lie to, or destroy "enemies" and, if plaintiff was considered to be an enemy as claimed, policy was relevant to issues of credibility. U.S.C.A. Const. Amend. 1.

**6. Malicious Prosecution — 71(1)**

Whether officer of defendant church was within scope of his employment when he lied about plaintiff's alleged criminal

a safe and whether inferences could be drawn that defendant, through its agents, was carrying out a policy of fair game in its actions against plaintiff were questions of fact for jury in action for malicious prosecution.

**7. Jury — 131(6)**

Trial court's thorough questioning of prospective jurors as to whether they had any belief or feeling toward any of the parties that might be regarded as a bias or prejudice for or against any of the parties was not improper in action against church for malicious prosecution, notwithstanding claimed failure to question prospective jurors as to their religious prejudice or attitudes, where questioning served purpose of voir dire, which was to select a fair and impartial jury, not to educate jurors or to determine exercise of peremptory challenges.

**8. Appeal and Error — 1064.2**

It was not prejudicial error to direct jury, in its assessment of malicious prosecution claim against defendant church, to disregard evidence that plaintiff purportedly stole travelers' checks from defendant.

**9. Appeal and Error — 1043(6)**

Regardless of whether trial court in action for malicious prosecution was misled in denying defendant's request for discovery of formal basis for obtaining or a dismissal by district attorney of criminal case against plaintiff, prejudicial error did not occur where, during trial, counsel for all parties stipulated that criminal proceedings against defendant were terminated in his favor by a dismissal by a judge of that court upon recommendation of district attorney.

**10. Libel and Slander — 33**

In matter of slander that plaintiff was, per se, such as the charging of a criminal charge, the promulgation of a policy of law.

**11. Malicious Prosecution — 56**

Damage in action for malicious prosecution was not limited to those actually suffered by plaintiff, but included reasonable attorneys' fees.



be presumed from a charge that is libelous per se, i. e., that a person committed the crime of theft.

**12. Appeal and Error — 205**

Refusal to allow, in connection with issue of damages in action for malicious prosecution, introduction of evidence on defendant's prior reputation was not error, much less prejudicial error, in absence of an offer of proof from defendant regarding such reputation.

**13. Malicious Prosecution — 69**

Presumed damage to plaintiff's reputation from an unfounded charge of theft leveled by defendant, along with imprisonment for 21 days, and mental and emotional anguish that must have followed were such as to justify a jury finding of \$50,000 in compensatory damages in action for malicious prosecution.

**14. Malicious Prosecution — 68**

The jury in an action for malicious prosecution must have found knowledge of falsity or reckless disregard for the truth in order to award punitive damages.

**15. Malicious Prosecution — 42**

"Fair game" policy which was initiated by founder and chief official of defendant church and which operated to authorize members of church to treat "enemies" in such a manner as led to filing of criminal theft charge against plaintiff was sufficient to establish ratification necessary for an award of punitive damages.

**16. Malicious Prosecution — 89**

Disparity between compensatory damages of \$50,000 and punitive damages of \$250,000 suggested that jury may have been so enraged by defendant's conduct toward plaintiff that award of punitive damages in action for malicious prosecution may have been more the result of feelings of animosity, rather than a dispassionate determination of an amount necessary to assess defendant in order to deter it from similar conduct in the future; accordingly, award for punitive damages would be reduced to \$50,000.

**17. Appeal and Error — 215(1)**

Claim that trial court instruction on probable cause in action for malicious prosecution was prejudicially erroneous could not be raised for first time on appeal.

**18. Malicious Prosecution — 64(2)**

While jurors in an action for malicious prosecution may consider that magistrate at preliminary hearing in previous criminal matter found probable cause for defendant's bringing charge against plaintiff, that should be in no way conclusive of jurors' own determination of probable cause.

Morgan, Wenzel & McNicholas by Gerald E. Agnew, Jr., Charles B. O'Reilly, Los Angeles, for plaintiff, cross-defendant and respondent.

Murchison, Cumming, Baker & Velpmen by Michael B. Lawler, Los Angeles, Tobias C. Tolzmann, Honolulu, Hawaii, Joel Kreiner, Los Angeles, for defendant, cross-complainant and appellant.

**1 BEACH, Associate Justice.**

I. Gene Allard sued the Church of Scientology for malicious prosecution. Defendant cross-complained for conversion. A jury verdict and judgment were entered for Allard on the complaint for \$50,000 in compensatory damages and \$250,000 in punitive damages. Judgment was entered for Allard and against the Church of Scientology on the cross-complaint. Defendant-cross complainant appeals from the judgment.

**FACTS:**

[1] The evidence in the instant case is very conflicting. We relate those facts supporting the successful party and disregard the contrary showing. (*Nestle v. City of Santa Monica*, 6 Cal.3d 920, 925, 926, 101 Cal.Rptr. 368, 496 P.2d 480.)

In March 1969, L. Gene Allard became involved with the Church of Scientology in Texas. He joined Sea Org in Los Angeles.



and was sent to San Diego for training. While there, he signed a billion-year contract agreeing to do anything to help Scientology and to help clear the planet of the "reactive people." During this period he learned about written policy directives that were the "policy" of the Church, emanating from L. Ron Hubbard, the founder of the Church of Scientology.<sup>1</sup> After training on the ship, respondent was assigned to the Advanced Organization in Los Angeles, where he became the director of disbursements. He later became the Flag Banking Officer.

<sup>144</sup> Alan Boughton, Flag Banking Officer International, was respondent's superior. Only respondent and Boughton knew the combination to the safe kept in respondent's office. Respondent handled foreign currency, American cash, and various travelers' checks as part of his job.

In May or June, 1969, respondent told Boughton that he wanted to leave the Church. Boughton asked him to reconsider. Respondent wrote a memo and later a note; he spoke to the various executive officers. They told him that the only way he could get out of Sea Org was to go through "auditing" and to get direct permission from L. Ron Hubbard. Respondent wrote to Hubbard. A chaplain of the Church came to see him. Lawrence Krieger, the highest ranking justice official of the Church in California, told respondent that if he left without permission, he would be fair game and "You know we'll come and find you and we'll bring you back, and we'll deal with you in whatever way is necessary."

On the night of June 7 or early morning of June 8, 1969, respondent went to his office at the Church of Scientology and took several documents from the safe. These

documents were taken by him to the Internal Revenue Service in Kansas City; he used them to allege improper changes in the records of the Church. He denies that any Swiss francs were in the safe that night or that he took such Swiss francs. Furthermore, respondent denies the allegation that he stole various travelers' checks from the safe. He admitted that some travelers' checks had his signature as an endorsement, but maintains that he deposited those checks into an open account of the Church of Scientology. There is independent evidence that tends to corroborate that statement. Respondent, having borrowed his roommate's car, drove to the airport and flew to Kansas City, where he turned over the documents to the Internal Revenue Service.

Respondent was arrested in Florida upon a charge of grand theft. Boughton had called the Los Angeles Police Department to report that \$23,000 in Swiss francs was missing. Respondent was arrested in Florida; he waived extradition and was in jail for 21 days. Eventually, the charge was dismissed. The deputy district attorney in Los Angeles recommended a dismissal in the interests of justice.<sup>2</sup>

#### <sup>145</sup> CONTENTIONS ON APPEAL:

1. Respondent's trial counsel engaged in flagrant misconduct throughout the proceedings below and thereby deprived appellant of a fair trial.

2. The verdict below was reached as a result of (a) counsel's ascription to appellant of a religious belief and practices it did not have and (b) the distortion and disparagement of its religious character, and was not based upon the merits of this case. To allow a judgment thereby achieved to stand would constitute a violation of appellant's free exercise of religion.

1. One such policy, to be enforced against "enemies" or "suppressive persons" was that formerly titled "fair game." That person "[m]ay be deprived of property or injured by any means by any Scientologist without any discipline of the Scientologist. May be tricked, sued or lied to or destroyed." (Exhibit 1.)

2. Leonard J. Shaffer, the deputy district attorney, testified outside the presence of the jury that members of the Church were evasive in answering his questions. He testified that the reasons for the dismissal were set forth in his recommendation; the dismissal was not part of a plea bargain or procedural or jurisdictional issue.



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3. Respondent failed to prove that ap-  
pellant maliciously prosecuted him and  
therefore the judgment notwithstanding  
the verdict should have been granted.

4. The refusal of the trial court to ask  
or permit voir dire questions of prospective  
jurors pertaining to their religious preju-  
dices or attitudes deprived appellant of a  
fair trial.

5. It was prejudicial error to direct the  
jury, in its assessment of the malicious  
prosecution claim, to disregard evidence  
that respondent stole appellant's Australian  
and American Express travelers' checks.

6. The order of the trial court in deny-  
ing to appellant discovery of the factual  
basis for the obtaining of a dismissal by  
the district attorney of the criminal case  
*People v. Allard* was an abuse of discre-  
tion and a new trial should be granted and  
proper discovery permitted.

7. Respondent presented insufficient ev-  
idence to support the award of \$50,000 in  
compensatory damages which must have  
been awarded because of prejudice against  
appellant.

8. Respondent failed to establish corpo-  
rate direction or ratification and also  
failed to establish knowing falsity and is  
therefore not entitled to any punitive dam-  
ages.

9. Even if the award of punitive dam-  
ages was proper in this case, the size of  
the instant reward, which would deprive  
appellant Church of more than 40% of its  
net worth, is grossly excessive on the facts  
of this case.

10. There was lack of proper instruc-  
tion regarding probable cause.<sup>3</sup>

#### DISCUSSION:

1. *There was no prejudicial misconduct  
by respondent's trial counsel, and appellant  
was not deprived of a fair trial.*

Appellant claims that it was denied a  
fair trial through the statements, question-  
ing, and introduction of certain evidence  
by respondent's trial counsel. *Love v.*

*Wolf*, 226 Cal.App.2d 378, 38 Cal.Rptr. 183,  
is cited as authority.

[2] We have reviewed the entire rec-  
ord and find appellant's contentions to be  
without merit. Several of counsel's indi-  
vidual statements and questions were inap-  
propriate. However, there often were no  
objections by counsel for appellant where  
an objection and subsequent admonition  
would have cured any defect; or there was  
an objection, and the trial court judiciously  
admonished the jury to disregard the com-  
ment. Except for these minor and infre-  
quent aberrations, the record reveals an  
exceptionally well-conducted and dispa-  
sionate trial based on the evidence present-  
ed.

As in *Stevens v. Parke, Davis & Co.*, 9  
Cal.3d 51, 72, 107 Cal.Rptr. 45, 507 P.2d  
653, a motion for a new trial was made,  
based in part upon the alleged misconduct  
of opposing counsel at trial. What was  
said in *Stevens* applies to the instant case.  
"A trial judge is in a better position than  
an appellate court to determine whether a  
verdict resulted wholly, or in part, from  
the asserted misconduct of counsel and his  
conclusion in the matter will not be dis-  
turbed unless, under all the circumstances,  
it is plainly wrong." [Citation.] From our  
review of the instant record, we agree with  
the trial judge's assessment of the conduct  
of plaintiff's counsel and for the reasons  
stated above, we are of the opinion that  
defendant has failed to demonstrate preju-  
dicial misconduct on the part of such  
counsel. (*Stevens v. Parke, Davis & Co.*,  
*supra*, 9 Cal.3d at p. 72, 107 Cal.Rptr. at p.  
58, 507 P.2d at p. 666.)

2. *The procedure and verdict below  
does not constitute a violation of appel-  
lant's First Amendment free exercise of  
religion.*

Appellant contends that various refer-  
ences to practices of the Church of Scien-  
tology were not supported by the evidence.  
were not legally relevant, and were unduly  
prejudicial. The claim is made that the

3. This issue is raised for the first time in appellant's reply brief.



trial became one of determining the validity of a religion rather than the commission of a tort.

The references to which appellant now objects were to such practices as "E-meters," tin cans used as E-meters, the creation of religious doctrine purportedly to "get" dissidents, and insinuations that the Church of Scientology was a great money making business rather than a religion.

[3-5] The principal issue in this trial was one of credibility. If one believed defendant's witnesses, then there was indeed conversion by respondent. However, the opposite result, that reached by the jury, would naturally follow if one believed the evidence introduced by respondent. Appellant repeatedly argues that the introduction of the policy statements of the Church was prejudicial error. However, those policy statements went directly to the issue of credibility. Scientologists were allowed to trick, sue, lie to, or destroy "enemies."

(Exhibit 1.) If, as he claims, respondent was considered to be an enemy, that policy was indeed relevant to the issues of this case. That evidence well supports the jury's implied conclusion that respondent had not taken the property of the Church, that he had merely attempted to leave the Church with the documents for the Internal Revenue Service, and that those witnesses who were Scientologists or had been Scientologists were following the policy of the Church and lying to, suing and attempting to destroy respondent. Evidence of such policy statements were damaging to appellant, but they were entirely relevant. They were not prejudicial. A party whose reprehensible acts are the cause of harm to another and the reason for the lawsuit by the other cannot be heard to complain that its conduct is so bad that it should not be disclosed. The relevance of appellant's conduct far outweighs any claimed prejudice.<sup>4</sup>

4. The trial court gave appellant almost the entire trial within which to produce evidence that the fair game policy had been repented.

We find the introduction of evidence of the policy statements and other peripheral mention of practices of the Church of Scientology not to be error. In the few instances where mention of religious practices may have been slightly less germane than the policy statements regarding fair game, they were nonetheless relevant and there was no prejudice to appellant by the introduction of such evidence.

3. The trial court properly denied the motion for judgment notwithstanding the verdict.

Appellant claimed that it had probable cause to file suit against respondent. The claim is made that even if Alan Boughton did take the checks from the safe, knowledge of that act should not be imputed to appellant Church.

[6] Based on the policy statements of appellant that were introduced in evidence, a jury could infer that Boughton was within the scope of his employment when he stole the francs from the safe or lied about respondent's alleged theft. Inferences can be drawn that the Church, through its agents, was carrying out its own policy of fair game in its actions against respondent. Given that view of the evidence, which as a reviewing court we must accept, there is substantial evidence proving that appellant maliciously prosecuted respondent. Therefore, the trial court did not err in denying the motion for the judgment notwithstanding the verdict.

4. The trial court performed proper voir dire of prospective jurors.

Appellant claims that the trial court refused to ask or permit voir dire questions of prospective jurors pertaining to their religious prejudices or attitudes. The record does not so indicate. Each juror was asked if he or she had any belief or feeling toward any of the parties that might be regarded as a bias or prejudice for or

Appellant failed to do so, and the trial court thereafter permitted the admission of Exhibit 1 into evidence.



of evidence of other peripheral Church of Scientology religious practices less germane regarding fair and relevant and appellant by the

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against any of them. Each juror was also asked if he or she had ever heard of the Church of Scientology. If the juror answered affirmatively, he or she was further questioned as to the extent of knowledge regarding Scientology and whether such knowledge would hinder the rendering of an impartial decision. One juror was excused when she explained that her husband is a clergyman and that she knows a couple that was split over the Church of Scientology.

[7] The trial court's thorough questioning served the purpose of voir dire, which is to select a fair and impartial jury, not to educate the jurors or to determine the exercise of peremptory challenges. (*Rousseau v. West Coast House Movers*, 256 Cal.App.2d 878, 882, 64 Cal.Rptr. 655.)

5. *It was not prejudicial error to direct the jury, in its assessment of the malicious prosecution claim, to disregard evidence that respondent stole appellant's Australian and American Express travelers' checks.*

<sup>145</sup> [8] Appellant submits that evidence of respondent's purported theft of the Australian and American Express travelers' checks should have been admitted as to the issue of malicious prosecution as well as the cross-complaint as to conversion. If there were any error in this regard, it could not possibly be prejudicial since the jury found for respondent on the cross-complaint. It is evident that the jury did not believe that respondent stole the travelers' checks; therefore, there could be no prejudice to appellant by the court's ruling.

6. *Appellant suffered no prejudice by the trial court's denial of discovery of the factual basis for obtaining of the dismissal by the district attorney.*

Prior to trial, appellant apparently sought to discover the reasons underlying the dismissal of the criminal charges against respondent. This was relevant to the instant case since one of the elements of a cause of action for malicious prosecution is that the criminal prosecution against the plaintiff shall have been favor-

ably terminated. (*Jaffe v. Stone*, 18 Cal.2d 146, 114 P.2d 335.)

[9] Whether or not the lower court was justified in making such an order, the denial of discovery along these lines could not be prejudicial. During the trial, counsel for all parties stipulated that the criminal proceedings against Allard were terminated in his favor by a dismissal by a judge of that court upon the recommendation of the district attorney.

In addition, there was a hearing outside the presence of the jury in which the trial court inquired of the deputy district attorney as to the reasons for the dismissal. It was apparent at that time that the prospective witnesses for the Church of Scientology were considered to be evasive. There was no prejudice to appellant since the deputy district attorney was available at trial. Earlier knowledge of the information produced would not have helped defendant. We find no prejudicial error in the denial of this discovery motion.

7. *The award of \$50,000 compensatory damages was proper.*

Appellant contends that based upon the evidence presented at trial, the compensatory damage award is excessive. In addition, appellant contends that the trial court erred in not allowing appellant to introduce evidence of respondent's prior bad reputation.

<sup>146</sup> There was some discussion at trial as to whether respondent was going to claim damaged reputation as part of general damages. The trial court's initial reaction was to allow evidence only of distress or emotional disturbance; in return for no evidence of damaged reputation, appellant would not be able to introduce evidence of prior bad reputation. The court, however, relying on the case of *Clay v. Lagiss*, 143 Cal.App.2d 441, 299 P.2d 1025, held that lack of damage to reputation is not admissible. Therefore, respondent was allowed to claim damage to reputation without allowing appellant to introduce evidence of his prior bad reputation.



[10-12] In matters of slander that are libelous per se, for example the charging of a crime, general damages have been presumed as a matter of law. (*Douglas v. Janis*, 43 Cal.App.3d 931, 940, 118 Cal.Rptr. 280[4], citing *Cly v. Lagiss*, *supra*, 143 Cal.App.2d at p. 448, 299 P.2d 1025. Compare *Gertz v. Welch*, 418 U.S. 323, 94 S.Ct. 2997, 41 L.Ed.2d 789.)<sup>5</sup> Damages in malicious prosecution actions are similar to those in defamation. Therefore, damage to one's reputation can be presumed from a charge, such as that in the instant case that a person committed the crime of theft. In any event, as the trial court in the instant case noted, there was no offer of proof regarding respondent's prior bad reputation; any refusal to allow possible evidence on that subject has not been shown to be error, much less prejudicial error.

Appellant further contends that the amount of compensatory damages awarded was excessive and that the jury was improperly instructed regarding compensatory damages. The following modified version of BAJI 14.00 and 14.13 was given:

"If, under the court's instructions, you find that plaintiff is entitled to a verdict against defendant, you must then award plaintiff damages in an amount that will reasonably compensate him for each of the following elements of loss or harm, which <sup>14.1</sup> in this case are presumed to flow from the defendant's conduct without any proof of such harm or loss: damage to reputation, humiliation and emotional distress.

"No definite standard or method of calculation is prescribed by law to fix reasonable compensation for these presumed elements of damage. Nor is the opinion of

any witness required as to the amount of such reasonable compensation. Furthermore, the argument of counsel as to the amount of damages is not evidence of reasonable compensation. In making an award for damage to reputation, humiliation and emotional distress, you shall exercise your authority with calm and reasonable judgment, and the damages you find shall be just and reasonable."

The following instruction was requested by defendant and was rejected by the trial court:

"The amount of compensatory damages should compensate plaintiff for actual injury suffered. The law will not put the plaintiff in a better position than he would be in had the wrong not been done." Accompanying the request for that motion is a citation to *Staub v. Muller*, 7 Cal.2d 221, 60 P.2d 283, and *Basin Oil Co. of Cal. v. Baash-Ross Tool Co.*, 125 Cal.App.2d 578, 271 P.2d 122.

The Supreme Court has recognized that "Damages potentially recoverable in a malicious prosecution action are substantial. They include out-of-pocket expenditures, such as attorney's and other legal fees . . . ; business losses . . . ; general harm to reputation, social standing and credit . . . ; mental and bodily harm . . . ; and exemplary damages where malice is shown . . ." (*Babb v. Superior Court*, 5 Cal.3d 841, 848, fn. 4, 92 Cal.Rptr. 179, 183, 479 P.2d 379, 383.) While these damages are compensable, it is the determination of the damages by the jury with which we are concerned. Appellant seems to contend that the jury must have actual evidence of the damages suffered and the monetary amount thereof.

5. The Supreme Court held in *Gertz v. Welch*, *supra*, 418 U.S. 323, 340, 94 S.Ct. 2997, 3011, 41 L.Ed.2d 789, an action for defamation, that "the States may not permit recovery of presumed or punitive damages, at least when liability is not based on a showing of knowledge of falsity or reckless disregard for the truth." (Emphasis added.) The instant case is distinguishable from *Gertz*. Initially, the interests protected by a suit

for malicious prosecution include misuse of the judicial system itself; a party should not be able to claim First Amendment protection maliciously to prosecute another person. Secondly, the jury in the instant case must have found "knowledge of falsity or reckless disregard for the truth" in order to award punitive damages herein. Therefore, even under *Gertz*, a finding of presumed damages is not unconstitutional.



[13] "[T]he determination of the jury on the issue of damages is conclusive on appeal unless the amount thereof is so grossly excessive that it can be reasonably imputed solely to passion or prejudice in the jury. [Citations.]" (*Douglas v. Janis, supra*, 43 Cal.App.3d at p. 940, 118 Cal. Rptr. at p. 286.) The presumed damage to respondent's reputation from an unfounded charge of theft, along with imprisonment for twenty-one days, and the mental and emotional anguish that must have followed are such that we cannot say that the jury's finding of \$50,000 in compensatory damages is unjustified. That amount does not alone demonstrate that it was the result of passion and prejudice.

8. Respondent is entitled to punitive damages.

[14] Appellant cites the general rule that although an employer may be held liable for an employee's tort under the doctrine of respondeat superior, ordinarily he cannot be made to pay punitive damages where he neither authorized nor ratified the act. (4 Witkin, Summary of Calif. Law, 8th Ed., § 855, p. 3147.)<sup>6</sup> Appellant claims that the Church of Scientology, which is the corporate defendant herein, never either authorized or ratified the malicious prosecution.

[15] The finding of authorization may be based on many grounds in the instant case. For example, the fair game policy itself was initiated by L. Ron Hubbard, the founder and chief official in the Church. (Exhibit 1.) It was an official authorization to treat "enemies" in the manner in

which respondent herein was treated by the Church of Scientology.

Furthermore, all the officials of the Church to whom respondent relayed his desire to leave were important managerial employees of the corporation. (See 4 Witkin, Summary of Calif. Law, 8th Ed., *supra*, § 857, p. 3148.)

The trier of fact certainly could have found authorization by the corporation of the act involved herein.

9. The award of punitive damages.

[16] Any party whose tenets include lying and cheating in order to attack its "enemies" deserves the results of the risk which such conduct entails. On the other hand, this conduct may have so enraged the jury that the award of punitive damages may have been more the result of feelings of animosity, rather than a dispassionate determination of an amount necessary to assess defendant in order to deter it from similar conduct in the future. In our view the disparity between the compensatory damages (\$50,000) and the punitive damages (\$250,000) suggests that animosity was the deciding factor. Our reading of the decisional authority compels us to conclude that we should reduce the punitive damages. We find \$50,000 to be a reasonable amount to which the punitive damages should be reduced. We perceive this duty, and have so modified the punitive damages award not with any belief that a reviewing court more ably may perform it.<sup>7</sup> Simply stated the decisional authority seems to indicate that the reviewing court should examine punitive damages and where necessary modify the amount in or-

6. We again note that *Gertz v. Welch, supra*, precludes the award of punitive damages in defamation actions "at least when liability is not based on a showing of knowledge of falsity or reckless disregard for the truth." The facts of the instant case fall within that categorization, so a finding of punitive damages was proper. Moreover, as we noted above, an egregious case of malicious prosecution subjects the judicial system itself to abuse, thereby interfering with the con-

stitutional rights of all litigants. Punitive damages may therefore be more easily justified in cases of malicious prosecution than in cases of defamation. The societal interests competing with First Amendment considerations are more compelling in the former case.

7. See dissent in *Cunningham v. Simpson*, 1 Cal.3d 301, 81 Cal.Rptr. 855, 401 P.2d 339.



der to do justice. (*Cunningham v. Simpson*, 1 Cal.3d 301, 81 Cal.Rptr. 855, 461 P. 2d 39; *Forte v. Nolfi*, 25 Cal.App.3d 656, 102 Cal.Rptr. 455; *Shroeder v. Auto Drive-away Company*, 11 Cal.3d 908, 114 Cal. Rptr. 622, 523 P.2d 662; *Livesey v. Stock*, 208 Cal. 315, 322, 281 P. 70.)

10. *Instruction on probable cause.*

Appellant requested an instruction stating: "Where it is proven that a judge has had a preliminary hearing and determined that the facts and evidence show probable cause to believe the plaintiff guilty of the offense charged therefore, ordering the plaintiff to answer a criminal complaint, this is *prima facie* evidence of the existence of probable cause." The trial court gave the following instruction: "The fact that plaintiff was held to answer the charge of grand theft after a preliminary hearing is evidence tending to show that the initiator of the charge had probable cause. This fact is to be considered by you along with all the other evidence tending to show probable cause or the lack thereof."<sup>8</sup>

[17, 18] Appellant claimed for the first time in his reply brief that the trial court's lack of proper instruction regarding probable cause was prejudicial error. Since this issue was raised for the first time in appellant's reply brief, we decline to review the issue.<sup>9</sup>

<sup>1454</sup> The judgment is modified by reducing the award of punitive damages only, from \$250,000 to the sum of \$50,000. As modified the judgment is in all other respects affirmed.

Costs on appeal are awarded to respondent Allard.

ROTH, P. J. and FLEMING, J., concur.

8. This instruction was given on the court's own motion.

9. We note that given the circumstances of the instant case, the juror could have easily been misled by the requested instruction. If the evidence showed that the agents and employees of appellant were lying, then the

Margaret BAXTER and Theodore Baxter,  
Petitioners,  
v.

The SUPERIOR COURT of California,  
COUNTY OF LOS ANGELES,  
Respondent;

C. Hunter SHELDON, M.D., et al.,  
Real Parties in Interest,  
Civ. 48182.

Court of Appeal, Second District,  
Division 2.

May 19, 1978.

Hearing Granted July 21, 1978.

Medical malpractice action was brought on behalf of minor child and his parents sought damages for expenses incurred as a result of alleged malpractice and for loss of consortium. Parents sought writ of mandate after the trial court sustained demurrers to their causes of action for loss of consortium. The Court of Appeal, Roth, P. J., held that cause of action could not be asserted by parents for loss of support, comfort, protection, society and pleasure of their minor child.

Alternative writ discharged; petition denied.

1. Parent and Child  $\Rightarrow$  7(1)

Cause of action could not be asserted by parents for loss of support, comfort, protection, society and pleasure of their minor child.

2. Parent and Child  $\Rightarrow$  1, 7(1)

Neither parent nor child has cause of action for loss of consortium because of wrongful injury of the other.

Ronald L. M. Goldman and Michael K. McKibbin, Newport Beach, for petitioners.

preliminary hearing at which they also testified would not be valid. While the jurors may of course consider that the magistrate at the preliminary hearing found probable cause, that should be in no way conclusive in the jury's determination of probable cause.



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should determine at what point Mercantile would be likely to enter the market. If Mercantile can enter either market within two or three years, we assume (absent contrary evidence) that each market will remain sufficiently concentrated so that Mercantile's procompetitive efforts are legally required. If Mercantile will not enter until much later, then the Board should assess the volatility of the two markets to determine the fairness of predicting whether they will still be concentrated at the time when Mercantile is likely to enter. A market's structure may or may not be predictable for five years; after that point, only the most stagnant market will support the extrapolation of present data. In a heavily regulated industry, banking would not seem a likely candidate for the seer; regulatory change can quickly alter the structure of the market.<sup>28</sup>

## IV.

We have attempted to define comprehensible standards in a difficult area of antitrust law. We hope that our suggested analysis will provide a framework for determining the validity and applicability of the potential competition doctrine. We look forward to any refinements that the parties may develop in the Board's further proceedings below. While we regret delaying the final disposition of Mercantile's application, we believe that further proceedings will better insure that the proper disposition is reached.

[25] To summarize: we hold that the Board may invalidate a proposed bank holding company merger on anticompetitive grounds only if the merger would violate the explicit antitrust standards contained in the 1966 amendments to the Bank Holding Company Act. We remand the application to the Board for the following findings:

1. Whether the existence of other actual potential competitors indicates that the elimination of Mercantile from their ranks will have a significant anticompetitive effect.

28. For example, the elimination of federal restrictions on interstate banking would quickly multiply the number of actual entrants by in-

2. Whether there is a reasonable probability that Mercantile will enter the El Paso and Waco markets independently if the present application (and merger with any other dominant firm in the two markets) is rejected. This finding should be made only after considering what factors would dispose Mercantile to prefer these opportunities for investment to other likely opportunities.
3. Whether Mercantile's entry *de novo* or by toehold acquisition will result in ultimate deconcentration of the two markets or in other significant procompetitive effects.

REMANDED.



CHURCH OF SCIENTOLOGY OF CALIFORNIA, Plaintiff-Appellant,

v.

Gabriel CAZARES, Defendant-Appellee.

Nos. 78-3100, 79-1840.

United States Court of Appeals,  
Fifth Circuit.

March 9, 1981.

Action was brought against mayor by the Church of Scientology which alleged that mayor violated civil rights of church and its members and defamed church. The United States District Court for the Middle District of Florida, Ben Krentzman, J., granted summary judgment in favor of mayor on the civil rights claim and dismissed defamation claim, and appeal was taken. The Court of Appeals, Kravitch,

cluding the large bank holding companies of New York, Chicago, and California as possibilities.

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See *Lund v. Affleck*, 587 F.2d 75 (1st Cir. 1978) (award of attorneys' fees proper where plaintiffs prevail on pendent nonconstitutional statutory claim, if civil rights claim substantial and pendent claim arises from same nucleus of facts); *Kimbrough v. Arkansas Activities Association*, 574 F.2d 423 (8th Cir. 1978) (fact that plaintiff prevailed on nonfederal claim did not render inappropriate award of attorneys' fees since constitutional claim was substantial and claims arose from same nucleus of facts); *Seals v. Quarterly County Court*, 562 F.2d 390, 393-94 (6th Cir. 1977) (attorneys' fees justified where plaintiffs filed a voting rights case under § 1983 but actually prevailed on a state claim based on same operative facts). *Maine v. Thiboutot*, — U.S. —, 100 S.Ct. 2502, 65 L.Ed.2d 555 (1980); see also (Attorneys' Fees Act applies to cases decided on statutory as well as constitutional grounds); *Maher v. Gagne*, — U.S. —, 100 S.Ct. 2570, 65 L.Ed.2d 652 (1980) (in dicta), the Court stated, "Congress intended fees to be awarded where a pendent constitutional claim is involved, even if the statutory claim on which the plaintiff prevailed is one for which fees cannot be awarded under the Act.").

[24] In the present case both counts arose out of the same nucleus of facts. Indeed, the first complaint filed by appellant alleged the defamatory statements by defendant as a part of the § 1983 claim. Because a defamation claim may not serve as the basis of a § 1983 suit, appellant was required to amend its complaint and plead the alleged defamation as a separate count. Appellants did not file the Third Amended Complaint until two years after the original complaint. Under these circumstances, it would be impossible to accurately apportion the time appellee's attorneys spent on the civil rights claim and on the nonfederal defamation claim. We hold, therefore, that the district court did not err in granting attorneys' fees for the entire case.

Appellant next argues that the district court erred in awarding attorneys' fees to Cazares in view of the fact that he was covered by insurance. According to the Church, under *Johnson v. Georgia Highway*

*Express, Inc.*, 488 F.2d 714 (5th Cir. 1974), a party cannot be awarded a higher fee than he is contractually obligated to pay: since Cazares was covered by insurance, he was not contractually obligated to pay any fee and thus should not be awarded any fee.

[25] This argument ignores Cazares' attorney's fees. The Church's position was one of indemnity: that the company was not required to pay unless Cazares was obligated to pay after termination of the case. See also *Perez v. Rodriguez Bou*, 575 F.2d 21 (1st Cir. 1978), where an award of attorneys' fees was not precluded by the fact that the litigants were represented by attorneys of a publicly funded corporation and were not charged for legal services they received in a 42 U.S.C. § 1983 action.

Finally, appellant contends that the court erred in awarding Cazares attorneys' fees without allowing the Church to depose Cazares' attorneys as to the time and nature of their services. Cazares' attorneys argue that the Church's proposed depositions were acts of harassment and that forcing the attorneys to go over their time slips would be an undue burden. The judge issued a protective order and held an evidentiary hearing at which the question of discovery was considered. The court then ordered the case to proceed without further discovery as to the exact amount of time expended by Cazares' attorneys.

[26] It does not appear that further discovery was warranted. The Church had interrogated Cazares' attorney at length. The attorney had provided in his affidavit a detailed record of time spent and duties performed. Besides, under *Johnson*, time spent on a claim is only one factor to be considered in the award of fees.

In *Cruz v. Beto*, 453 F.Supp. 905 (S.D. Tex.1977), *aff'd*, 603 F.2d 1178 (5th Cir. 1979), the district court noted:

defendants apparently misconstrue the role of the Court in computing a reasonable fee. The Court is not required to calculate, nor are plaintiffs obligated to prove, a reasonable fee with "mathematical precision". *Johnson, supra* at 720. This is especially true where the need for



trial court abused its discretion in limiting discovery.

#### VI. Attorneys' Fees

After granting defendant's motions for summary judgment, the district court considered defendant's application, as the prevailing party in the § 1983 count, for the award of attorneys' fees. The court granted the defendant's motion for fees and directed the parties to submit affidavits or other evidence as to the amount thereof.

The court next conducted an evidentiary hearing in which it considered and made findings with regard to each of the criteria suggested in *Johnson v. Georgia Highway Express*, 488 F.2d 714 (5th Cir. 1974). The court's award to Cazares of \$36,221.75 in attorneys' fees is appealed by the Church.

In § 1983 actions, awards of attorneys' fees are governed by 42 U.S.C. § 1988, which states in pertinent part:

In any action or proceeding to enforce a provision of sections 1981, 1982, 1983, 1985, and 1986 of this title, . . . the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorneys fee as part of the costs.

The court's discretion is limited, however, to the extent that a prevailing defendant can recover only if the plaintiff's claim was "frivolous, unreasonable, or groundless, or . . . plaintiff continued to litigate after it clearly became so." *Lopez v. Aransas County, Independent School District*, 570 F.2d 541, 545 (5th Cir. 1978), citing *Christiansburg Garment Co. v. E.E.O.C.*, 404 U.S. 412, 98 S.Ct. 694, 701, 54 L.Ed.2d 648 (1978).

In the present case the Church argues the action was not frivolous, unreasonable or groundless because: (1) the court sustained the complaint for over two years; (2) evidence supported the claim; and (3) the judge himself stated the action presented novel legal issues.

15. During these two years, the complaint was amended three times, primarily in order to clar-

[21, 22] The fact that the court sustained the complaint for over two years is a tribute to the trial judge's patience and fairness, not an indication of his view of the merits.<sup>15</sup> Furthermore, as we pointed out in Part III, *supra*, there was no material, admissible evidence to support the Church's civil rights claim. Moreover, although the judge stated that the action presented novel legal issues, this comment does not preclude a finding that the claim was groundless. Obviously, it was the question of standing, which had little to do with the merits of the claim, that presented the difficult legal issues.

[23] We agree with the trial court that the civil rights action was frivolous, unreasonable, and groundless. An award of attorneys' fees to the defendant was justified.

There is no statute providing for attorneys' fees in a diversity defamation action. Thus, had this suit been brought only on Count II, attorneys' fees would not have been recoverable. Fees were recoverable on Count I, however, and here the court based its award on both the civil rights and the defamation action. The court explained:

The terms of the statute quoted above [42 U.S.C. § 1988] would not preclude an award for the entire case, and at least one court has found that the provision applies to the entire case where plaintiff joins claims some of which qualify for fees under 42 U.S.C. 1988, and which ordinarily would be tried in one proceeding. *Southeast Legal Defense Group v. Adams*, 436 F.Supp. 891, 894 (D.Or.1977). The Court concludes that attorneys' fees may be awarded for the entire case, if otherwise appropriate.

Several circuits have held that where a civil rights claim is made, a socio-economic claimant may also collect attorney's fees concerning legal actions or counts which come from or arise out of the same set of facts.

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documentation and specific listings of times and dates to support plaintiffs' request is at a minimum because of the Court's intimate acquaintance with the litigation. Rather, so long as the Court can reasonably ascertain, either on the basis of supporting time sheets or through its independent perception of counsel's efforts and abilities, that the hours claimed by counsel in their affidavits are a rational reflection of the services performed, the prevailing party will have fulfilled its burden of proof. Thus, although the preferable and less-risky course of action is for counsel to keep detailed time records to be submitted with a fee request, counsel's failure to do so is not fatal to plaintiff's application in this particular case.

[27] Here, the court indicated it was intimately familiar with the litigation and was satisfied with the correctness of its award which it considered extremely low. We find no abuse of discretion.

In summary, we hold: (1) the Church had representative standing in the § 1983 action; (2) the district court correctly dismissed three allegedly defamatory allegations; (3) the district court correctly entered summary judgment on both counts; (4) the district court correctly found the civil rights claim was frivolous, groundless, and unreasonable and appellee was entitled to attorneys' fees; (5) the fees were properly based upon the entire case, both counts arising from one nucleus of facts; (6) the district court correctly awarded attorneys' fees to Cazares although he was covered by insurance; and (7) the district court correctly refused to allow the Church to depose Cazares' attorneys as to the time and nature of their services.

Accordingly, the judgment is AFFIRMED.



UNITED STATES of America,  
Plaintiff-Appellee,

v.

Vernon Horace TUCKER and Marion  
Benton Morton,  
Defendants-Appellants.

No. 80-1012.

United States Court of Appeals,  
Fifth Circuit,  
Unit A

March 9, 1981.

Rehearing and Rehearing En Banc  
Denied April 16, 1981.

Defendants were convicted in the United States District Court for the Eastern District of Texas, William Wayne Justice, Chief Judge, of conspiracy and conducting an illegal gambling business. Defendants appealed. The Court of Appeals, Gee, Circuit Judge, held that: (1) a waitress employed by the gambling enterprise performed functions necessary to or helpful in the operation of the business and could be included to meet the five-person requirement of the gambling statute; (2) the substantiality requirement of the statute did not require a showing that the same five persons operated the business for more than 30 days; (3) the trial court's failure to admit into evidence the Government's bill of particulars response was not prejudicially erroneous; (4) an affidavit was sufficient to justify the issuance of a search warrant; and (5) the evidence was sufficient to sustain one defendant's conviction.

Affirmed.

1. Gaming — 62

Waitresses who served drinks to gamblers, made change for them to use in placing bets in cash game, and delivered phone messages to them performed functions necessary to or helpful in operation of gambling business and could be included to establish violation of statute prohibiting conduct of illegal gambling business involving five or more persons. 18 U.S.C.A. § 1955(b)(1)(ii).

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IN THE COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL DISTRICT OF EDMONTON

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No. 958<sup>9</sup>3

BETWEEN:

CHURCH OF SCIENTOLOGY MISSION OF EDMONTON, CHURCH OF  
SCIENTOLOGY MISSION OF CALGARY, AND CHURCH OF SCIENTOLOGY  
MISSION OF OLD STRATHCONA,

Plaintiffs

- and -

EVELYN HAMDON, LES JACKMAN, LORNA LEVETT, BETTY McCOY,  
BRENDON MOORE, WILLIAM REID, NEOL TAYLOR, and DAVID  
WALLACE,

Defendants

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ORAL JUDGMENT

of The Honourable Mr. Justice Agrios

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THE COURT:

I am cognizant of the well established rule that one must be extremely cautious in departing from the general rule that costs to be awarded to a successful litigant are to be taxed as between party and party on the basis of an authoritative and well recognized tariff.

Having reviewed the history of these proceedings, I am of the view that the case at bar is



the rare and exceptional case in which costs should be awarded on a solicitor/client basis rather than on a party/party basis.

Counsel for the Plaintiffs has referred to two recent decisions of our Court, firstly by Chief Justice Sinclair in McCarthy vs Board of Trustees of Calgary Roman Catholic Separate School District No. 1, and secondly by Mr. Justice Kirby, in Mobil Oil Canada v Canadian Superior Oil.

The general principles are recited in both decisions. Both of these cases went to trial and it was held that the difficulty and complexity of the proceedings is not of itself a reason for departing from the general rule. However, in the case at bar, the issue will never be tried. It is apparent that throughout the proceedings the Defendants and not the Plaintiffs were endeavouring to have the trial heard.

I need not repeat the entire and rather remarkable history of this case. The record submitted by counsel for the Defendants speaks for itself. The contempt of court, the failure to comply with innumerable court orders, the need to formally settle minutes of appeal; the entire conduct of the Plaintiffs is not one that should be countenanced by our courts.

In my view, the proceedings and the action of the Plaintiffs amounted to a clear abuse of process and accordingly, I award costs on a solicitor/client basis to the Defendants in the sum of \$60,500 plus additional costs of this Applicant to be calculated in the same fashion as



the prior account submitted by the Defendants' solicitors to their clients.

Counsel for the Plaintiffs in a very persuasive manner suggested it would be more appropriate to award cost on a party/party basis using a multiple of column five of schedule C of our Rules of Court. I can not, with respect, agree with this submission.

I did suggest that on the basis on a number of Ontario cases set out in the Defendants' counsels' brief, and particularly as noted in the case of McGee vs the Ottawa Separate School Board, that there may be a distinction as to solicitor/client costs where there is evidence that they are being paid by a third party. It is not clear to me that such a distinction is appropriate in Alberta, however, counsel for the Plaintiff indicated in his view any such distinction would not apply in this case.

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DELIVERED at Edmonton, Alberta,  
the 6th day of October, A.D. 1980.

Mr. D.A. McGillivray  
For the Plaintiffs,

Mr. C.D. Evans  
Mr. K.E. Staroszik, and  
Mr. H. Joffe  
For the Defendants.

D. Johnson  
kw/2



IN THE COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL DISTRICT OF EDMONTON

BETWEEN:

CHURCH OF SCIENTOLOGY MISSION OF EDMONTON,  
CHURCH OF SCIENTOLOGY MISSION OF CALGARY,  
and CHURCH OF SCIENTOLOGY MISSION OF OLD  
STRATHCONA

by certify to be a true copy of  
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this day of 1980.

Respondents  
(Plaintiffs)

- and -

for Clerk of the Court

EVELYN HAMDON, LPS JACKMAN, LORNA LEVETT,  
BETTY McCOY, BRENDON MOORE, WILLIAM REID,  
NEIL TAYLOR and DAVID WALLACE

Applicants  
(Defendants)

BEFORE THE HONOURABLE	)	At the Court House, in the City of
MR. JUSTICE J. AGRIOS	)	Edmonton, in the Province of Alberta,
IN COURT ON OCTOBER 6TH,	)	on Monday, the 6th day of October,
1980 AND IN PRIVATE	)	1980 and on Tuesday, the 21st day
CHAMBERS ON OCTOBER 21ST,	)	of October, 1980.
1980.	)	

ORDER

UPON THE APPLICATION of the Applicants (Defendants)  
for an Order to determine the quantum of costs in this action;  
AND UPON HEARING counsel for the Applicants (Defendants); AND  
UPON HEARING counsel for the Respondents (Plaintiffs);

IT IS HEREBY ORDERED THAT

1. The Court has jurisdiction to hear the application.
2. The Applicants (Defendants) are not entitled to call viva voce evidence.




3. The Applicants (Defendants) are entitled to the costs of this action as determined on the scale of solicitor/client.

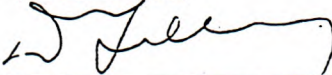
4. The solicitor and client costs for the Defendants LORNA LEVETT, BETTY McCOY, BRENDON MOORE, WILLIAM REID, NEIL TAYLOR, DAVID WALLACE and LES JACKMAN are in the sum of \$60,500.00.

AND UPON IT APPEARING that the Defendant LES JACKMAN had settled his pro rata share of the application for costs prior to the said hearings, solicitor/client costs in the sum of \$60,500.00 are reduced by 1/7th and are hereby set in favour of the Defendants LORNA LEVETT, BETTY McCOY, BRENDON MOORE, WILLIAM REID, NEIL TAYLOR and DAVID WALLACE in the lump sum of \$51,857.15.

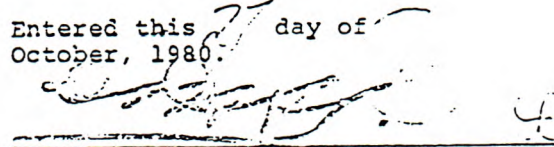
5. The Applicants (Defendants) shall have the costs of this application calculated on a solicitor/client basis.

M.A. GRACOWSKI   
Clerk of the Court of Queen's  
Bench of Alberta

Approved as being the Order granted  
Solicitors for the Respondents  
(Plaintiffs)



Entered this 27 day of  
October, 1986.

  
Clerk of the Court



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IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT  
OF FLORIDA TAMPA DIVISION

CHURCH OF SCIENTOLOGY OF  
CALIFORNIA,

Plaintiff,

vs.

GABRIEL CAZARES,

Defendant.

:

:

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: Case No. 76-86 Civ. T-K

:

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FILED  
TAMPA, FLA.

MAR 19 1979

O R D E R

WESLEY R. THIES  
CLERK

Order granting defendant's motion for summary judgment was entered herein August 15, 1978, notice of appeal from judgment thereon was filed September 13, 1978.

The Court received and considered memoranda on defendant's application for the award of attorney fees, and on October 20, 1978, entered an order which allowed attorney fees to defendant and directed the parties to submit affidavits or other evidence as to the amount thereof, calling attention to the case of Johnson v. Georgia Highway Express, 488 F.2d 714 (5th Cir. 1974).

The parties stipulated for retention of the record on appeal in the District Court for use in preparing appellate briefs and the Court entered an order directing that that be done.

On March 14, 1979, the Court conducted a hearing as to the amount of attorney fees to be allowed. The proceedings were reported and are available for transcription if required.

At hearing the Court considered and made findings with regard to each of the criteria suggested in Johnson, supra. For the reasons given at hearing and as indicated thereat, the Court found and finds that an award of \$36,021.75 is fair and reasonable, and should be paid by plaintiff to defendant



for the benefit of counsel for defendant for their services herein.

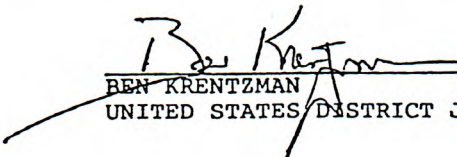
At hearing counsel for plaintiff indicated their desire to appeal the award of attorney fees and the amount fixed for the same, together with the matter for which notice of appeal has already been filed and moved for supersedeas bond.

Upon consideration, the Court fixed supersedeas bond in the sum of \$38,000 to be secured by corporate surety or by the deposit of cash or negotiable securities in form to be approved by the Clerk of the Court, and allowed 10 days for the posting of same.

In the event notice of appeal is filed as to the supplemental action herein, the Clerk of the Court is directed to include any transcript of the proceedings on March 14, 1979 filed herein, together with a copy of this order.

In view of the provisions of this order and of the matters and facts herein set out, the stay in transmittal of record on appeal heretofore ordered is no longer necessary, and the Clerk is directed to forward the complete record as soon as possible.

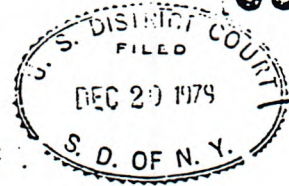
IT IS SO ORDERED at Tampa, Florida this 19 day of March, 1979.

  
BEN KRENTZMAN  
UNITED STATES DISTRICT JUDGE



COPY

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK



-----x  
CHURCH OF SCIENTOLOGY OF CALIFORNIA :  
and FOUNDING CHURCH OF SCIENTOLOGY :  
OF WASHINGTON, D.C., :

79 Civ. 1166 (GLG)

Plaintiffs, :

-against- :

O P I N I O N

#49455

JAMES SIEGELMAN, FLO CONWAY, J.B. :  
LIPPINCOTT COMPANY and MORRIS DEUTSCH, :

Defendants. :  
-----x

A P P E A R A N C E S :

COHN, GLICKSTEIN, LURIE,  
OSTRIN & LUBELL, ESQS.  
Attorneys for Plaintiffs  
1370 Avenue of the Americas  
New York, N.Y. 10019

By: Jonathan W. Lubell, Esq.  
Audrey J. Isaacs, Esq.  
Of Counsel

ROSNER & ROSNER, ESQS.  
Attorneys for Defendant, Deutsch  
6 East 43rd Street  
New York, N.Y. 10017

By: Jonathan Rosner, Esq.  
Of Counsel



IN THE UNITED STATES DISTRICT COURT FOR THE MIDDLE DISTRICT  
OF FLORIDA TAMPA DIVISION

CHURCH OF SCIENTOLOGY  
OF CALIFORNIA,

Plaintiff,

vs.

GABRIEL CAZARES,

Defendant.

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Case No. 76-86 Civ. T-K

FILED  
TAMPA, FLA.

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ORDER

WESLEY R. THIES  
CLERK

The Court has for consideration the question of the award of attorneys' fees in this action, which was grounded in part in 42 U.S.C. 1983.

In general, an award of attorneys' fees may be made against a party who has proceeded in bad faith. Christianburg Garment Co. v. E.E.O.C., 98 S.Ct. 694, 699 (1978). Defendant, the prevailing party herein, does not allege in terms the presence of bad faith.

In actions grounded in 42 U.S.C. 1983, however, the award of attorneys' fees is governed also by 42 U.S.C. 1988, which states in pertinent part:

In any action or proceeding to enforce a provision of sections 1981, 1982, 1983, 1985, and 1986 of this title, . . . the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee as part of the costs.

The Court's discretion is limited, however, to the extent that prevailing defendant can recover only if plaintiff's claim was "frivolous, unreasonable, or groundless, or . . . plaintiff continued to litigate after it clearly became so." Lopez v. Arkansas Cty. Independent School District, 570 F.2d 541, 545 (5th Cir. 1978), citing Christianburg Garment Co. v. E.E.O.C., supra at 701.



The first question that must be decided is whether this standard can be applied to the entire pleadings herein, or whether it may apply only to the 1983 allegations. The terms of the statute quoted above would not preclude an award for the entire case, and at least one court has found that the provision applies to the entire case where plaintiff joins claims some of which qualify for fees under 42 U.S.C. 1986, and which ordinarily would be tried in one proceeding. Southeast Legal Defense Group v. Adams, 436 F.Supp. 891, 894 (D.Ore.1977). The Court concludes that attorneys' fees may be awarded for the entire case, if otherwise appropriate.

The Court proceeds to the question whether plaintiff's claim was "frivolous, unreasonable, or groundless." This case arose under unusual circumstances. The Fort Harrison Hotel in Clearwater, Florida, was acquired in October 1975 by Southern Land and Development and Leasing Corp., about which little was known. Personnel of the corporation asserted that United Churches of Florida, Inc., a multi-denominational organization, would use the hotel. When it was learned finally that plaintiff Church of Scientology would in fact be the principal user of the hotel, defendant Gabriel Cazares, then Mayor of Clearwater, criticized plaintiff's activities. Such criticism, and subsequent actions taken to initiate investigations of plaintiff's activities, formed the basis of plaintiff's complaint.

The Court believes that said complaint was frivolous, unreasonable, and groundless. The groundlessness of plaintiff's complaint is demonstrated by the lack of evidentiary support for plaintiff's claims and the circumstances in which they arose. The statements and actions complained of took



place at a time when an organization about which little was known was seeking to acquire, and in fact acquiring, a major city landmark, and doing so in a manner that aroused a general public interest. In the public debate over the propriety of plaintiff's actions, and their potential effect, plaintiff saw fit to initiate this action. The record now reveals that there was no basis for this action, but it was initiated nevertheless in an apparent effort to influence the source of criticism rather than respond to the criticism in debate. Plaintiff admitted to being a "public figure" and had no cause to complain of mere public discussion of its activities. The Court finds that the suit was frivolous and groundless, and that its initiation under the circumstances was unreasonable.

Much has been said by both plaintiff and defendant about the Church of Scientology's "fair game" policy, and material introduced into the record could support the conclusion that it is plaintiff's policy to be the sole source of information about itself, and to attempt to quell dissenting views offered by its opponents, who may be labeled "Suppressive Persons," by the harassing use of the legal process. The Court makes no findings in this regard, as it is sufficient to hold that plaintiff's complaint was unreasonable, frivolous and groundless.

The Court is not given pause by the fact that plaintiff sought to voluntarily dismiss the complaint and that defendant opposed the motion. The dismissal sought was without prejudice, and the action could have been initiated at a later time had the Court granted the motion. The Court believes that defendant was entitled to pursue the matter to his vindication, as he did.



In accordance with the foregoing, the Court concludes that an award of attorneys' fees as part of the costs is appropriate. Defendant is directed to submit within ten (10) days affidavits or other evidence it wishes the Court to consider in determining the amount of fees to be awarded. Plaintiff shall have ten (10) days thereafter to make whatever objections it wishes to make. The attention of the parties is directed to Johnson v. Georgia Highway Express, Inc., 488 F.2d 714, 717-719 (5th Cir.1974).

The Court also has for consideration the motion for substitution of counsel for plaintiff. It appears that plaintiff has consented, and the Court is of the opinion that the motion should be, and it is hereby, granted.

In view of the Court's disposition of the above, defendant's motion to strike affidavit is denied as moot.

IT IS SO ORDERED at Tampa, Florida this 20 day of October, 1978.

  
BEN KRENTZMAN  
UNITED STATES DISTRICT JUDGE



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counsel. It is difficult to understand these allegations because we are not cited to any supporting references in the transcript. Moreover, what evidence there is in the record is sparse, almost to the point of non-existence and the claims are ambiguously stated. As to the hearsay claim, if that is what it is, the Government contends that the appellant's deposition in a civil case in Maryland showed that appellant recalled so little about his alleged course of study in Mexico as to strongly indicate that he never attended any of the courses at the university that his allegedly forged credentials set forth (Tr. 689-696). It appears that this is prior testimony by way of deposition, and if so it would be admissible as a recognized exception to the hearsay rule.

Upon compliance with requirements which are designated to guarantee an adequate opportunity of cross-examination, evidence may be received in the pending case, in the form of a written transcript or an oral report, of a witness's previous testimony. This testimony may have been given by deposition or at a trial, either in a separate case or proceeding, or in a former hearing of the present

McCormick on Evidence § 254, at 614 (2d ed. 1972).

The context of this deposition, insofar as it was read into the record in this case, appears in the transcript at 689-696. Among other apparently startling deficiencies in memory, it indicates that Maturo could not translate the Spanish on his diploma while he admitted that the examinations in medical school were all in Spanish (Tr. 689-697. See also Tr. 710-711).

[3] Insofar as appellant may be claiming inadequate representation by his counsel it is our opinion that the allegation with respect thereto is insufficient to raise the issue for this court. However, inasmuch as the case is being remanded, the trial court should include all three claims in the hearing. So far as we can determine from the briefs and record, points (2) and (3) have not been raised or argued heretofore and what is involved in point (1), except for the

possible claim of inadmissible hearsay, is not apparent to us. At the hearing appellant will have an opportunity to clarify the issues being litigated.

Appellant also contends that the prosecutor misrepresented to the court in the bond hearing that Officer Vance had recanted his affidavit in connection with the alleged wiretapping (Tr. June 16, 1970, at 9-10). The status of this issue as a new or old one is not readily apparent, but the court may consider it with the wiretapping and the intimidation issues, to which it also relates. See Appellant's Brief at M-8.

Finally, as to Maturo's claim that he was discriminated against by the court not hearing his claim while it did hear Vecchiarello's, this remand for a joint hearing with Vecchiarello is a complete answer to this claim.

The case is remanded to the district court for disposition consistent with this opinion.

Order accordingly.



The FOUNDING CHURCH OF SCIENTOLOGY OF WASHINGTON, D. C., Appellant.

v.

Heinrich Bauer VERLAG et al.

No. 71-1789.

United States Court of Appeals,  
District of Columbia Circuit

Argued Oct. 22, 1975.

Decided June 1, 1976.

Religious organization brought libel action against, inter alia, distributor of West German magazine which contained allegedly libelous article. The District Court for the District of Columbia dismissed for want



G O E T T E L, D. J.:

In this libel action brought by two branches of the Church of Scientology, defendant Morris Deutsch has moved to reargue many of the issues decided by the Court in its opinion of August 27, 1979. Church of Scientology of California v. Siegelman, 475 F. Supp. 950 (S.D.N.Y. 1979).

The facts of this action are set forth in detail in the August 27th decision. Defendant Deutsch now asserts that the Court erred in failing to dismiss the action as against him. In essence he argues that because the statements allegedly made by him were directed at the Scientology movement in general, and not at either of the instant plaintiffs, neither of these plaintiffs was defamed or, consequently, damaged.

In order to make out a cause of action for libel a plaintiff must establish that the alleged defamatory remark was directed at some specific individual or group and not merely at an "indeterminate class." Gross v. Cantor, 270 N.Y. 93, 96, 200 N.E. 592, 593 (1936); Schutzman & Schutzman v. News Syndicate Co., 60 Misc. 2d 827, 304 N.Y.S.2d 167 (Sup. Ct. 1969). Where the defamatory remark is found to be directed at a "small" group as a whole, however, it has been held that suit may be brought by any member of that group. Neiman-Marcus v. Lait, 13 F.R.D. 311, 315 (S.D.N.Y. 1952). See Arcand v. Evening Call Publishing Co., 567 F.2d 1163, 1164-65 (1st Cir. 1977).



The defendant asserts that the alleged defamatory remarks refer to the overall, worldwide Scientology movement, of which there are more than five million members (over three million members in the United States) and numerous organizational instrumentalities. Accordingly, as the group allegedly defamed is extremely large, the defendant claims that no individual within that group can sue absent proof that that individual was a specific target of the defamatory language. See Neiman-Marcus v. Lait, supra.

Conversely, the plaintiff asserts that the alleged defamatory language relates to the very limited group of Churches of Scientology in the United States. As there are only twenty-two such churches within that group, the plaintiffs claim that all members of the group can sue. See Gross v. Cantor, supra.

Where the truth lies in this matter is somewhat unclear. The Court believes, after having closely examined the alleged defamatory language in the complaint, that the plaintiff will have difficulty proving that the language relates to the limited group of Churches of Scientology. Nevertheless, we cannot say at this time, as a matter of law, that they will not be able to do so, and thus show that the alleged defamation related to these plaintiffs. See Fetler v. Houghton Mifflin Co., 364 F.2d 650 (2d Cir. 1966). See also Mitchell v. Bindrim, 92 Cal. App. 3d 61, 155 Cal. Rptr. 29 (1979), cert. denied, 48 U.S.L.W. 3370 (U.S. Dec. 3, 1979). Accordingly, the defendant's motion to reargue as to this point is denied.



In its August 27th opinion the Court expressed its doubts as to the ability of the plaintiffs to prove the existence of the "actual malice" on the part of the defendant that is necessary in order to establish his liability. Church of Scientology of California v. Siegelman, *supra*, 475 F. Supp. at 955. The Court has now expressed its doubts as to the ability of the plaintiffs to demonstrate that the alleged defamatory remarks made were directed at them rather than at some far larger group. Nevertheless, as to both issues discovery has not as yet been completed,<sup>1/</sup> and the Court believes it would be premature to reach any final determination on these issues. However, in view of the importance of preventing potentially frivolous suits where first amendment rights are concerned, and in view of the continuing appropriateness of summary judgment (though apparently limited by the Supreme Court's recent decision in Hutchinson v. Proximire, 99 S.Ct. 2675, 2680 n.9 (1979)) as a means through which to resolve many such cases, *see* Nader v. De Toledano, F.2d (D.C. Cir., July 31, 1979), the Court makes its determination as to the instant motion, as it did as to the defendant's previous motion,

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<sup>1/</sup> Discovery in this action has, it appears, been proceeding at a less than rapid pace, with frequent disputes arising between the parties.




without prejudice to renewal upon completion of discovery.<sup>2/</sup>

Finally, the defendant has asserted that the Court also erred in dismissing his counterclaims that alleged violations of 42 U.S.C. § 1985(3). In this regard, and contrary to the defendant's assertions, the Court has previously considered and rejected as insufficient for section 1985 purposes, the overbroad class, which has been characterized as consisting of members, former members, and persons disseminating information about, the Church of Scientology, but which in essence is made up of persons who are critics of the Church. Church of Scientology of California v. Siegelman, *supra*, 475 F. Supp. at 957 n.19. Having been presented with no compelling reason why this result should be modified or reversed, the Court reaffirms its conclusion that this "vague and amorphous class was not formed on the basis of any invidious criteria," *id.*, 475 F. Supp. 957 and, accordingly, that the defendant's counterclaims brought under section 1985 must be dismissed.

The defendant Deutsch's motion for reargument is, at this time, denied in all respects.

SO ORDERED:

Dated: New York, N.Y.,  
December 19, 1979.

  
U.S.D.J.

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<sup>2/</sup> In this regard the Court reaffirms its statement in Church of Scientology of California v. Siegelman, *supra*, 475 F. Supp. at 956 n.16, that "should it be ultimately determined that this suit was brought without cause, or for the purpose of harassment, the Court will not hesitate to order the imposition of counsel fees upon the plaintiff. See Nemeroff v. Abelson, 469 F. Supp. 630 (S.D.N.Y. 1979)."



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**CHURCH OF SCIENTOLOGY OF CALIFORNIA and Founding Church of Scientology of Washington, D. C., Plaintiffs,**

**James SIEGELMAN, Flo Conway, J. B. Lippincott Company and Morris Deutsch, Defendants.**

**No. 79 Civ. 1166 (GLG).**

**United States District Court,  
S. D. New York.**

**Aug. 27, 1979**

Religious organization brought defamation suit against authors, publisher, and a former member of the organization, and defendants counterclaimed for prima facie tort, abuse of process, and conspiracy to deprive defendants of their constitutional rights. The District Court, Goettel, J., held that: (1) statements which were made by defendant authors and which were replete with opinions and conclusions about methods and practices used by religious organization and the effect such methods and practices had, recounts of what authors had been told during the course of their investigation, and some unflattering factual statements did not go beyond what one would expect to find in a frank discussion of a controversial religious organization, which was a public figure, and thus such statements could not be the basis for religious organization's defamation action; (2) fact issue existed as to whether defamatory statements of fact made by former member of religious organization were made with actual malice, precluding summary judgment as to that defendant; and (3) counterclaim sufficiently alleged cause of action against plaintiff religious society for prima facie tort; however, defendants' counterclaim failed to allege cause of action for abuse of process and conspiracy to deprive defendants of their constitutional rights.

Order accordingly.

**1. Constitutional Law — 84**

Testing in court the truth or falsity of religious beliefs is barred by the First Amendment; courts must remain neutral in matters of religious doctrine and practice, avoid involvement in affairs of any religious organization or group, and resist the making of any type of ecclesiastical determination. U.S.C.A. Const. Amend. 1.

**2. Constitutional Law — 84**

Where alleged defamation relates to secular matters and where issues can be resolved by neutral principles of law, the First Amendment does not bar a defamation suit brought by a religious organization. U.S.C.A. Const. Amend. 1.

**3. Constitutional Law — 84**

The First Amendment did not bar defamation suit brought by religious organization, since the allegedly defamatory remarks did not, on their face, relate to the validity of religious beliefs or practices, but dealt with the allegedly debilitating physical and psychological effects certain actions by the religious organization had upon its members. U.S.C.A. Const. Amend. 1.

**4. Libel and Slander — 73**

Religious organization was not precluded from bringing defamation suit merely because it was an association and not an individual.

**5. Libel and Slander — 48(1)**

Plaintiffs that were component parts of a large worldwide religious movement which claimed to have over 5 million adherents, which had taken affirmative steps to attract public attention, and which had actively sought new members and financial contributions from the general public were "public figures," and were thus required to prove that defendants made statements knowing them to be false, or with reckless disregard as to whether they were false or not, in order to recover in their defamation suit.

See publication Words and Phrases for other judicial constructions and definitions.



Cite as 475 F.Supp. 950 (1979)

## 6. Federal Civil Procedure — 2515

In defamation suit brought by religious organization against coauthors of a book, publisher of the book, and a former member of the organization, fact issue existed as to whether the allegedly defamatory remarks were made with actual malice.

## 7. Libel and Slander — 123(1)

In defamation action, whether a particular statement itself could constitute a fact or an opinion is a question of law to be determined by the court.

## 8. Libel and Slander — 6(1)

Statements which were made by defendant authors and which were replete with opinions and conclusions about methods and practices used by religious organization and the effect such methods and practices had, recounts of what authors had been told during the course of their investigation, and some unflattering factual statements did not go beyond what one would expect to find in a frank discussion of a controversial religious organization, which was a public figure, and thus such statements could not be the basis for religious organization's defamation action.

## 9. Federal Civil Procedure — 2515

In defamation action brought by religious organization, fact issue existed as to whether defamatory statements of fact made by former member of religious organization were made with actual malice, precluding summary judgment as to that defendant.

## 10. Conspiracy — 10

Process — 171

Torts — 26(1)

Counterclaim filed by authors and publisher named defendants in defamation action sufficiently alleged cause of action against plaintiff religious organization for prima facie tort; however, defendants' counterclaim failed to allege cause of action for abuse of process and conspiracy to de-

prive defendants of their constitutional rights.

Cohn, Glickstein, Lurie, Ostrin & Lubell, New York City, for plaintiffs by Jonathan W. Lubell and Audrey J. Isaacs, New York City, of counsel.

Clark, Wulf, Levine & Peratis, New York City, for defendants Siegelman and Conway by Melvin L. Wulf, New York City, of counsel.

Lester, Schwab, Katz & Dwyer, New York City, for defendant Lippincott by Patrick A. Lyons, New York City, of counsel.

Rosner & Rosner, New York City, for defendant Deutsch by Jonathan Rosner, New York City, of counsel.

## OPINION

GOETTEL, District Judge:

In this latest libel action brought by the plaintiffs, two branches of the litigious Church of Scientology,<sup>1</sup> motions have been made by the various defendants to dismiss the complaint for failure to state a claim upon which relief may be granted, Fed.R. Civ.P. 12(b)(6), for judgment on the pleadings, Fed.R.Civ.P. 12(c), and for summary judgment, Fed.R.Civ.P. 56. The plaintiffs have cross-moved to dismiss the counterclaims raised against them.

The defendants Siegelman and Conway are the co-authors of the book *Snapping: America's Epidemic of Sudden Personality Change*, which was published by defendant J. B. Lippincott Company in 1978. In this book the authors attempt to explore what they describe as the "phenomenon . . . [of] sudden and drastic alterations of personality," investigating in the process the effects on personality of the techniques used by many of the current religious "cults" and mass-marketed self help therapies. Included among the many groups studied and commented upon was the

1. A Lexis scan provided this Court of reported decisions in the United States courts in which the Church of Scientology was a party revealed the existence of thirty such cases. See Exhibit

C, Motion of Defendant Deutsch to Dismiss Complaint, for Judgment on the Pleadings, or for Summary Judgment Dismissing the Complaint.



Church of Scientology.<sup>3</sup> The plaintiffs now contend that included among the passages in the book relating to the Church of Scientology were a number of highly defamatory comments.

Following publication of *Snapping*, and as a result of the interest generated by it, and the topic generally, the defendant Siegelman, along with the defendant Deutsch, a former member of the Church of Scientology, appeared as guests on the syndicated television program "The David Susskind Show." The plaintiffs allege that during the course of the program both of these defendants, in response to certain questions posed, made defamatory comments about the Church.<sup>4</sup> The plaintiffs additionally assert that further defamatory remarks were made by Siegelman and Conway in an interview which was published in *People* magazine.

The plaintiffs in the instant action, the Church of Scientology of California, which is registered in California as a non-profit, religious corporation, and the Founding Church of Scientology of Washington, D.C., which is registered in Washington, D.C. as a non-profit, religious corporation, are part of the worldwide Scientology religion of which the plaintiffs assert there are more than five million members, over three million of them in the United States. Numerous local churches of Scientology are located throughout the United States and in various foreign countries.<sup>5</sup> The plaintiffs assert that their individual churches have been seriously injured by the defendants' alleged defamatory statements, and that as a result their ability to function as a non-profit organization has been seriously impaired. The plaintiffs now seek damages against all of the defendants.

2. Although the text of *Snapping* covers two hundred and fifteen pages, only seven and one-half of these deal specifically with the Church of Scientology.

3. Although Mr. Susskind took part in the discussion, neither he, nor any of the television entities, were named as defendants in this action.

The defendants have alleged a number of grounds upon which the complaint should be dismissed. They first assert, characterizing this action as one concerning statements of religious practice and beliefs, and citing to a long line of Supreme Court cases, that this suit is barred by the free exercise and establishment clauses of the First Amendment.

[1] It is well established that "testing in court the truth or falsity of religious beliefs is barred by the First Amendment." *Founding Church of Scientology v. United States*, 133 U.S.App.D.C. 229, 243, 409 F.2d 1146, 1156 (D.C.Cir.1969). See *United States v. Ballard*, 322 U.S. 78, 64 S.Ct. 882, 83 L.Ed. 1148 (1944). Courts must remain neutral in matters of religious doctrine and practice, *Epperson v. Arkansas*, 393 U.S. 97, 89 S.Ct. 266, 21 L.Ed.2d 228 (1968), avoid involvement in the affairs of any religious organization or group, *Wolman v. Walter*, 433 U.S. 229, 97 S.Ct. 2593, 53 L.Ed.2d 714 (1977), *Everson v. Board of Education*, 330 U.S. 1, 67 S.Ct. 504, 91 L.Ed. 711 (1947), and resist the making of any type of ecclesiastical determination, *Presbyterian Church in the United States v. Hull Memorial Presbyterian Church*, 393 U.S. 440, 89 S.Ct. 601, 21 L.Ed.2d 658 (1969), see *Serbian Eastern Orthodox Diocese v. Milivojevic*, 426 U.S. 696, 96 S.Ct. 2372, 49 L.Ed.2d 151 (1975). As has been noted, the First Amendment rests "upon the premise that both religion and government can best work to achieve their lofty aims if each is left free from the other within its respective sphere." *McCullum v. Board of Education*, 333 U.S. 203, 212, 68 S.Ct. 461, 465, 92 L.Ed. 649 (1948).

[2] The defendants assert that this doctrine of non-entanglement with religion bars the bringing of a libel action by a religious denomination, such as the Church

4. Apparently all of these local churches are separately incorporated in a state in which they conduct their activities.

5. The First Amendment states that, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; . . ." U.S.Const. Amend. 1.



Cite as 473 F.Supp. 936 (1979)

of Scientology,<sup>6</sup> when the alleged libel relates to the validity of religious beliefs and practices. The Court agrees that where validity of religious beliefs are at issue involvement by the judiciary would be inappropriate. See *Cimijotti v. Paulsen*, 230 F.Supp. 39 (N.D.Iowa, 1964). It does not follow from this, however, that simply because a religious organization is a party to an action that that action should be immediately categorized as a theological dispute. Where the alleged defamation relates to secular matters, and where the issues can be resolved by neutral principals of law, no First Amendment bar exists. As was noted by the Supreme Court in a somewhat different context, "[c]ivil courts do not inhibit free exercise of religion merely by opening their doors to disputes involving church property." *Presbyterian Church in the United States v. Hull Memorial Presbyterian Church*, 393 U.S. at 449, 89 S.Ct. at 606.

[3] In the instant action the alleged defamatory remarks do not, on their face, relate to the validity of religious beliefs or practices. Rather, these statements deal with the alleged debilitating physical and psychological effect certain actions by the Church of Scientology have upon its members. While the Court will be vigilant to avoid any entanglement with theological questions should they arise, at this time no

such questions are presented. Accordingly, the Court finds that the free exercise and establishment clauses to the First Amendment are no bar to this action.

[4] Having determined that this action is not precluded by the free exercise and establishment clauses, the Court must next turn to more traditional defamation concerns and determine whether the plaintiff churches constitute public figures within the doctrine of *New York Times Co. v. Sullivan*, 376 U.S. 254, 84 S.Ct. 710, 11 L.Ed.2d 686 (1964).<sup>7</sup>

In *New York Times* it was held that a public official could not recover in defamation absent proof that the defendant made the statement knowing it to be false, or with reckless disregard as to whether it was false or not. This standard of proof has been extended so as to apply to public figures as well as public officials. *Curtis Publishing Co. v. Butts*, 388 U.S. 130, 87 S.Ct. 1975, 18 L.Ed.2d 1094 (1967). Thereafter, the Supreme Court, in *Gertz v. Robert Welch, Inc.*, 418 U.S. 323, 345, 94 S.Ct. 2997, 3009, 41 L.Ed.2d 789 (1974), attempted to define the ways in which a person could become a public figure:

"For the most part those who attain this status have assumed roles of especial

6. In *Founding Church of Scientology v. United States*, 133 U.S.App.D.C. 299, 409 F.2d 1146 (D.C.Cir.1969), the court held, in view of the plaintiff's having made out a *prima facie* case that Scientology was a religion, and of the defendant's decision not to contest such a characterization, that for the purposes of that action the Church of Scientology was to be treated as a religion entitled to the protection of the free exercise clause. None of the defendants in the instant action have, as of this time, challenged the plaintiffs' description of themselves as religious institutions.

7. The defendants have also asserted that, since the plaintiffs are religious associations and not individuals, their rights to compensation for damages is non-existent, and that therefore the action should be dismissed. The Court, however, finds no merit to this claim for, while it is true that the great majority of defamation cases have been brought by individuals to protect their reputation, see, e.g., *Herbert v. Lando*, — U.S. —, 99 S.Ct. 1835, 60 L.Ed.2d 115 (1979); *Time, Inc. v. Firestone*, 424 U.S. 448, 95

S.Ct. 1557, 43 L.Ed.2d 773 (1976), corporations have also been allowed to maintain such actions. See e.g., *Friends of Animals, Inc. v. Associated Fur Manufacturers*, 46 N.Y.2d 1065, 416 N.Y.S.2d 790, 390 N.E.2d 298 (1979); *Cole Fischer Rogow, Inc. v. Carl Ally, Inc.*, 29 A.D.2d 423, 288 N.Y.S.2d 556 (1st Dep't. 1968). In *Cole Fischer Rogow, Inc.*, *supra* at 427, 288 N.Y.S.2d at 562, it was held that for a corporation to recover in defamation it was necessary that:

"the language used must tend directly to injure plaintiff in its business, profession or trade, and must impute to the plaintiff some quality which would be detrimental, or the absence of some quality which is essential to the successful carrying on of his office, profession or trade."

Thus, if the plaintiffs, after having established the liability of any or all of the defendants, can meet the *Cole Fischer* test and show direct injury, they would then be entitled to compensation for damages.



prominence in the affairs of society. Some occupy positions of such persuasive power and influence that they are deemed public figures for all purposes. More commonly, those classed as public figures have thrust themselves to the forefront of particular public controversies in order to influence the resolution of the issues involved."

[5] Applying this standard to the facts of the instant action the Court finds the plaintiffs, the Church of Scientology of California, and the Founding Church of Scientology of Washington, D.C., to be public figures. The plaintiffs are component parts of a large world-wide religious movement which claims to have over five million adherents. Unlike the plaintiff in *Time, Inc. v. Firestone*, 424 U.S. 448, 96 S.Ct. 958, 47 L.Ed.2d 154 (1976),<sup>8</sup> the instant plaintiffs have taken affirmative steps to attract public attention, and actively seek new members and financial contributions from the general public.<sup>9</sup> See *James v. Gannett*, 40 N.Y.2d 415, 386 N.Y.S.2d 871, 353 N.E.2d 834 (1976). As was found in regards to another religious institution (the Gospel Spreading Church) this Court believes the Church of Scientology to be "[a]n established church with substantial congregations . . . [which] seeks to play 'an influential role in ordering society.'" *Gospel Spreading Church v. Johnson Publishing Co.*, 147 U.S.App.D.C. 207, 208, 454 F.2d 1050, 1051 (D.C.Cir.1971). The Church of Scientology has thrust itself onto the public scene, and accordingly should be held to the stringent *New York Times* burden of proof in attempting to make out its case for defa-

mation. See *Church of Scientology of California v. Cazares*, 455 F.Supp. 420 (M.D.Fla. 1978); *Church of Scientology of California v. Dell Publishing Co., Inc.*, 362 F.Supp. 767 (N.D.Cal.1973).<sup>10</sup> See also *Friends of Animals, Inc. v. Associated Fur Manufacturers, Inc.*, 46 N.Y.2d 1065, 416 N.Y.S.2d 790, 390 N.E.2d 256 (1979).

[6] Holding the plaintiffs to the *New York Times* burden of proof, however, does not resolve the issue before the Court. The defendants Deutsch and Lippincott<sup>11</sup> (defendants Siegelman and Conway have not joined in this motion) assert that the plaintiffs cannot satisfy the requirement of proving actual malice, and that therefore summary judgment should be granted. They further state that such summary disposition is particularly appropriate, and in fact may be "the 'rule' and not the exception," *Guitar v. Westinghouse Electric Corp.*, 396 F.Supp. 1042, 1053 (S.D.N.Y. 1975), in defamation actions, and is necessary so as to prevent the litigation from having any potentially chilling effect on the exercise of free speech. See *Bon Air Hotel v. Time, Inc.*, 426 F.2d 858, 864 (5th Cir. 1970); *Oliver v. Village Voice, Inc.*, 417 F.Supp. 235 (S.D.N.Y.1976).

The Court is similarly concerned over the damaging effect a frivolous suit could have upon the exercise of First Amendment rights. The propriety of granting summary judgment where actual malice has been alleged, however, has been cast into great doubt by the Supreme Court's recent pronouncement in *Hutchinson v. Proxmire*, — U.S. —, 99 S.Ct. 2675, 61 L.Ed.2d 411 (1979). In its decision the Court noted

8. In *Firestone* it was held that a prominent socialite involved in a heavily publicized (with extensive media coverage) divorce action was not a public figure since such publicity had been involuntarily obtained as a result of the plaintiff being "compelled to go to court by the State in order to obtain legal release from the bonds of matrimony." *Id.* at 454, 96 S.Ct. at 965.

9. The plaintiffs, in order to attract both contributors and new adherents to their religion, utilize street-side solicitations, distribute large amounts of printed matter, and send unrequested literature through the mails.

10. In *Dell Publishing Co.* the court, although not directly addressing the public figure issue, applied the *New York Times* actual malice standard in determining the motion before it.

11. The plaintiffs assert that as a result of defects in the defendant Lippincott's moving papers, such papers should not be treated as ones for summary judgment (but simply as additions to the papers moving to dismiss the complaint.) In view of the Court's disposition of this motion, however, there is no need to reach this question.



Cite as 473 F.Supp. 859 (1979)

its doubt as to the validity of the "so-called 'rule' that summary judgment is more appropriately granted in defamation actions than in other types of suits, and stated that "[t]he proof of 'actual malice' calls a defendant's state of mind into question, *New York Times v. Sullivan*, 376 U.S. 254, 24 S.Ct. 719, 38 L.Ed.2d 101 (1964), and does not readily lend itself to summary disposition."

The plaintiffs have alleged that the defamatory remarks were made with actual malice and that therefore the *New York Times* standard can be met. While the supporting material submitted as to this point is far from convincing, the plaintiffs have managed to place the defendants' state of mind into question, and, in view of the Supreme Court's statement in *Proxmire*, the Court does not believe it appropriate to grant summary judgment at this time. This determination is made, however, without prejudice to any future motion being made after additional discovery has been conducted.<sup>12</sup>

[7] Finally, the defendants argue that even if the Court does not accept their theoretical arguments as to the free establishment and exercise clauses, or as to the lack of actual malice, it must still dismiss the complaint because the alleged defamatory statements either are not libelous, or constitute expression of opinion. In this regard it has been held that "[u]nder the First Amendment there is no such thing as a false idea," *Gertz v. Robert Welch*, 418 U.S. at 339, 94 S.Ct. at 3007, and thus an opinion, "[h]owever pernicious" cannot be the basis for an action in defamation. See

*Buckley v. Littell*, 539 F.2d 882, 889 (2d Cir. 1976). Whether a particular statement is held to constitute a fact or an opinion is "a question of law," *Rinaldi v. Holt, Rinehart & Winston, Inc.*, 42 N.Y.2d 369, 381, 397 N.Y.S.2d 943, 950, 366 N.E.2d 1299, 1306 (1977), to be determined by the Court. See *United States v. Gurnea*, 410 U.S. 439, 34 S.Ct. 2770, 41 L.Ed.2d 745 (1974).

The plaintiffs have alleged in their complaint the utterance of twenty-three defamatory statements by the various defendants: ten by Siegelman, Conway and Lippincott arising from the publication of *Snapping*, and contained in count ten; one by Siegelman contained in count eighteen, and eight by Deutsch, contained in count nineteen, arising from the Susskind interview; and four by Siegelman and Conway arising from the People magazine interview, and contained in count twenty-seven. After careful examination of these statements the Court finds that many of them are clearly either non-libelous, or statements of opinion, and thereby may not be the basis for an action in defamation.

[8] Turning first to the allegations against Siegelman, Conway and Lippincott contained in count ten, the Court can find nothing in these statements capable of rising to the level of a malicious false utterance necessary for recovery in defamation. These statements are replete with opinions and conclusions about the methods and practices used by the Church of Scientology and the effect such methods and practices have,<sup>13</sup> recounts of what the authors had been told during the course of their investigation,<sup>14</sup> and some unflattering, though not

of Scientology is a tour de force of science fiction.

14. See, e.g., ¶ 10(B) of the complaint.

"It may also be one of the most powerful religious cults in operation today: The tales that have come out of Scientology are nearly impossible to believe in relation to a religious movement that has accumulated great credibility and respect around the world in less than twenty-five years. It has also gathered an estimated 3.5 million followers. Nevertheless, the reports we have seen and heard in the course of our research, both in the media and in personal interviews with former Scientology high-

12. In light of the Court's ultimate determination as to the action against defendants Siegelman, Conway, and Lippincott, see *infra*, any such subsequent motion would, of course, only apply as to defendant Deutsch.

13. See, e.g., ¶ 10(d) of the complaint:

"In our opinion, however, Scientology does not lead people beyond faith to absolute certainty—it leads them to levels of increasingly realistic hallucination. The crude technology of auditing is a direct assault on human feeling and on the individual's ability to distinguish between what he is actually experiencing and what he is only imagining. The bizarre folklore



defamatory, factual statements.<sup>15</sup> None of these statements go beyond what one would expect to find in a frank discussion of a controversial religious movement, which is a public figure, and thus none of these statements may be the basis for an action in defamation.

Similarly, the alleged utterances in counts eighteen and twenty-seven cannot survive judicial scrutiny. As to the defamatory language attributed to Siegelman in count eighteen the Court finds it to be a statement of opinion, albeit a rather negative one, by the defendant about the plaintiff, and thus not actionable. As to the alleged defamation contained in count twenty-seven the Court once again finds the statements to be a mix of opinion and unadmitted, but non-defamatory, factual statements, none of which is actionable.

[9] Turning finally to the alleged defamatory remarks made by defendant Deutsch on the Suskind show, the Court finds that questions exist which preclude disposition at this time. The statements attributed to Deutsch are, unlike the ones attributed to the other defendants, defamatory statements of fact. Deutsch asserts as

er-ups, are replete with allegations of psychological devastation, economic exploitation, and personal and legal harassment of former members and journalists who speak out against the cult."

15. See, e.g., § 10(C) of the complaint:

"But for the casual customer choosing among a vast assortment of currently available techniques for self-betterment, the Scientology procedure is well-known, attractive, and inexpensive to begin. The auditing process takes place in private sessions between subject and auditor, in which the subject's emotional responses are registered on a device called an E-meter, a kind of crude lie detector. The subject holds the terminals of the E-meter in his hands, and the rise or fall of electrical conductivity in response to the perspiration emitted from the palms is explained as a measure of emotional response to the auditor's course of questioning. The average response registers in the normal range on the meter, with abnormal indicating an overreaction, 'uptightness,' or sign of trauma on the part of the subject. The goal of auditing is to bring all the individual's responses within the range of normal on the E-meter. Using a technique that bears only superficial resemblance to the popular method

a defense both that he believes the statements to be true, and that, in any event, they were all made without actual malice. He also asserts that the statements alleged were not addressed to these plaintiffs but rather to Scientology in general, and thus that these plaintiffs were neither defamed nor damaged. Finally, he claims that the utterances in the complaint were so edited and placed out of context as to be thoroughly misleading. These defenses, however, raise questions of fact which cannot be decided at this time. See *Proxmire v. Hutchinson*, — U.S. —, 99 S.Ct. 2675, 61 L.Ed.2d 411.

Accordingly, the motion to dismiss of defendants Siegelman and Conway, and the motion to dismiss of defendant Lippincott, are hereby granted. The motion of defendant Deutsch is, at this time, denied.<sup>16</sup>

[10] Having thus disposed of the defendants' motions, the Court next turns its attention to the plaintiffs' motion to dismiss the counterclaims for *prima facie* tort, abuse of process, and conspiracy to deprive the defendants of their constitutional rights,<sup>17</sup> which have been alleged against them.

of biological regulation known as biofeedback, the individual watches the E-meter and follows precise instructions given by the auditor to learn how to reduce his emotional response to the auditor's questions about past and painful experiences. When the individual has mastered this ability, he becomes eligible for admission to the elite Club of Scientology class."

16. Although the Court feels constrained, in view of the *Proxmire* footnote, to deny the motion of defendant Deutsch at this time, should it be ultimately determined that this suit was brought without cause, or for the purpose of harassment, the Court will not hesitate to order the imposition of counsel fees upon the plaintiff. See *Nemeroff v. Abelson*, 469 F.Supp. 630 (S.D.N.Y.1979).

17. The defendant Deutsch had initially also alleged a counterclaim based upon 42 U.S.C. § 1983. Upon the plaintiff's bringing of the instant motion, however, the defendant chose, quite correctly in view of the facts of this case, to consent to the dismissal of this claim.



It has been held that in order to be liable for a *prima facie* tort a party must be found guilty of having inflicted intentional harm, resulting in damages, without legal excuse or justification, by an act or series of acts which would otherwise be lawful. *Sommer v. Kaufman*, 59 A.D.2d 843, 399 N.Y.S.2d 7 (1st Dep't., 1977). In the instant action, the defendants allege that the plaintiffs, acting with malice and without excuse or justification, brought this lawsuit solely for the purpose of punishing the defendants for their expression of adverse opinions about Scientology, and that as a result they have suffered monetary damages. Proof of such intentional infliction and resulting damage would establish a *prima facie* tort. *Rager v. McCloskey*, 306 N.Y. 75, 111 N.E.2d 214 (1953), and would thereupon shift the burden to the plaintiffs who would have to prove that such conduct was privileged. While the facts before the Court at this stage of the litigation are sparse, it is certainly not clear, contrary to the plaintiffs' claim, that the defendants will not be able to meet their burden of proof. Accordingly, the motion to dismiss this counterclaim is denied.

The defendants' second counterclaim alleges "abuse of process" by the plaintiffs. Abuse of process has been defined as the "misuse or perversion of regularly issued legal process for a purpose not justified by the nature of the process." *Board of Education of Farmingdale v. Farmingdale Classroom Teachers Assoc.*, 38 N.Y.2d 397, 400, 380 N.Y.S.2d 635, 639, 343 N.E.2d 978, 280 (1975).<sup>18</sup> The defendants allege that the plaintiffs so abused process when they served each defendant with a summons and complaint for the sole purpose of harassing, discouraging and intimidating them from further criticizing Scientology. Upon close examination, however, the Court believes that while such allegations may succeed in a

suit for malicious prosecution (brought after a successful termination of this litigation), they are insufficient to sustain a cause of action for abuse of process. *Hoppenstein v. Zemek*, 62 A.D.2d 979, 403 N.Y.S.2d 542 (2d Dep't. 1978) (the mere institution of a civil action by summons and complaint is not legally considered such process as is capable of being abused and thereby does not afford a basis for a cause of action for abuse of process). The plaintiffs' motion to dismiss the defendants' counterclaims for abuse of process is granted.

The defendants' final counterclaims allege that the plaintiffs, along with other persons, have engaged in a conspiracy to deprive a class of individuals, of whom the defendants were a part, (described essentially as consisting of critics of the Church of Scientology),<sup>19</sup> of their constitutionally-protected rights in violation of 42 U.S.C. § 1985(3). The plaintiffs have moved to dismiss, asserting that such class was not formed on the basis of any invidious criteria, and thus that the defendants cannot satisfy the prerequisites for maintaining a section 1985 action. *Griffen v. Breckenridge*, 403 U.S. 88, 91 S.Ct. 1790, 29 L.Ed.2d 338 (1971); *Jacobson v. Organized Crime and Racketeering, etc.*, 544 F.2d 637 (2d Cir.), cert. denied, 403 U.S. 955, 97 S.Ct. 1599, 51 L.Ed.2d 804 (1977). Although the Court finds this to be a close issue, we conclude that this vague and amorphous alleged class was not formed on the basis of any invidious criteria. See *Rodgers v. Tolson*, 582 F.2d 315 (4th Cir. 1978) (critics of city commissioners not a valid class); *Harrison v. Brooks*, 519 F.2d 1358 (1st Cir. 1975) (residential property owners who own adjacent residential land illegally crossed by industrial access driveways not a valid class); *Kimble v. D. J. McDuffy, Inc.*, 445

18. In this regard it has been noted that even a pure spite motive is insufficient to show abuse of process where process is used only to accomplish the result for which it was created. See Prosser, *Law of Torts*, § 121 (4th ed. 1971).

19. Defendant Deutsch characterized the class as consisting of members and former members, and persons disseminating information about the Church of Scientology.



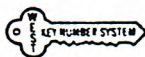
F.Supp. 269 (E.D.La.1978) (oil industry workers who had made any prior claim for personal injuries not a valid class).<sup>20</sup> In addition, the defendants have not even made a minimal showing that the two plaintiffs, as opposed to the world-wide Scientology movement in general, have conspired with each other for the purpose of depriving the putative class of their constitutional rights. Accordingly, the plaintiffs' motion to dismiss the defendants' counterclaim based upon 42 U.S.C. § 1985(3) is hereby granted.

#### Conclusion

The action against defendants Siegelman, Conway and Lippincott is hereby dismissed. The motion of defendant Deutsch is denied, without prejudice, however, to a subsequent motion upon completion of additional discovery. The plaintiffs' motion to dismiss all counterclaims is denied in part and granted in part.

The Clerk will enter judgment dismissing the action against defendants, Siegelman, Conway, and Lippincott.

SO ORDERED.



Tommie W. TAYLOR and Larry C. Peyton, Plaintiffs,

v.

TELETYPE CORPORATION, Defendant,

James H. Bibbs, Ike Bolden, Virginia Burnett, Bowman Burnett, Jr., Fred Donley, Ray Jackson, Ray Kennard, with others, William Walker, James Walters, Jr., Cato Conley, Joseph Harris, Earl Jones, and Godfrey Hill, Intervenor.

No. LR-C-77-65.

United States District Court,  
E. D. Arkansas, W. D.

Aug. 29, 1979.

Plaintiffs brought employment discrimination suit, alleging discrimination in employment based on race. The District Court, Arnold, J., held that: (1) plaintiffs made prima facie case with respect to black employees demoted between February 28, 1974, and the end of 1976 but failed to make a prima facie case with respect to demotions in 1977, 1978, and 1979; (2) employer rebutted certain employee's prima facie case with respect to first demotion but not second demotion and subsequent layoff; (3) evidence established that certain employee's demotion was based at least in part on his race; (4) employer rebutted prima facie case with respect to other employee's demotion, and (5) employer rebutted prima facie case of discrimination with respect to employee who was terminated for excessive absences.

Ordered accordingly.

#### 1. Civil Rights — 44(1)

In employment discrimination suit, plaintiffs made prima facie case with re-

20. For cases which have found a valid class for § 1985 purposes, see *Glasson v. City of Louisville*, 518 F.2d 899 (6th Cir.), cert. denied, 423 U.S. 930, 96 S.Ct. 280, 46 L.Ed.2d 258 (1975); *Westberry v. Gilman Paper Co.*, 507 F.2d 206

(5th Cir. 1975), vacated as moot, 507 F.2d 215 (5th Cir. 1975); *Selzer v. Berkowitz*, 459 F.Supp. 347 (E.D.N.Y.1978); *Bradley v. Clegg*, 403 F.Supp. 830 (E.D.Wis.1975).

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of jurisdiction and religious organization appealed. The Court of Appeals, MacKinnon, Circuit Judge, held that distributor which had sales of \$26,000 in ten-month period within the District of Columbia, representing one percent of the gross revenues of the distributor for that ten-month period, had sufficient contact with the District to permit assertion of long-arm jurisdiction over it; and that court erred in dismissing on grounds of forum non conveniens where both plaintiff and defendant were citizens of the United States and where plaintiff sought damages for libelous publication in the District of Columbia, even though the article was written and published in West Germany and even though certain West German residents had initially been defendants in the action.

Reversed.

#### 1. Courts — 12(2)

In order for court to properly assert personal jurisdiction over a nonresident defendant, service of process over the nonresident must be authorized by statute and be within the limits set by the due process clause of the constitution. U.S.C.A. Const. Amend. 14.

#### 2. Courts — 444.3(2)

Connection with the District of Columbia sufficient to authorize assertion of personal jurisdiction over a nonresident defendant can be demonstrated under the District's long-arm statute only by proving that the defendant has one of three types of contact with the district and that the connection at least evinces the minimum contacts with the District sufficient to satisfy traditional notions of fair play and substantial justice. D.C.C.E. § 13-423(a)(4).

#### 3. Statutes — 226

Because their similarly worded statutes also derive from the Uniform Interstate and International Procedure Act, decisions construing Maryland and Virginia long-arm statutes are entitled to substantial weight in considering long-arm statute of the District of Columbia. D.C.C.E. § 13-423(a)(4).

Code Md.1957, art. 75, § 96(a)(4); Code Va. 1950, § 8-81.2(a)(4).

#### 4. Courts — 444.3(2)

In order to show the reasonable connection necessary for assertion of long-arm jurisdiction over a defendant on the basis of its having derived substantial income for goods used or consumed in the jurisdiction, court must look both at the absolute amount of revenues and the percentage of total revenues represented by activities in the jurisdiction. D.C.C.E. § 13-423(a)(4).

#### 5. Courts — 444.3(2)

Distributor which had its principal offices in city of New York, which received German-language magazines from West Germany and forwarded them by common carrier to another distributor in the District of Columbia, which had sales of \$26,000 in the District in the first ten months of the year, with such sales representing approximately one percent of its gross revenues for the ten-month period, had, on the basis of income derived from the District, reasonable connection with the District so that District could assert long-arm jurisdiction over the distributor with respect to allegedly libelous magazine article. D.C.C.E. § 13-423(a)(4).

#### 6. Courts — 444.3(2)

Distributor which engaged in the distribution of magazines outside the area of their immediate circulation and which did not engage in news-gathering activities in the District of Columbia could not assert protection of news-gathering exception to assertion of long-arm jurisdiction over it. D.C.C.E. § 13-423(a)(4).

#### 7. Courts — 260.1

Statutory reference to "any District of Columbia court" in forum non conveniens statute does not include federal courts in the District of Columbia. D.C.C.E. § 13-425.

See publication Words and Phrases for other judicial constructions and definitions.

#### 8. Courts — 260.1

Federal courts have the power to refuse jurisdiction over cases which should

have been brought in rather than in the foreign jurisdiction considered more suitable in which to require parties to be determined.

#### 9. Courts — 260.4

Where both alleged and distributor of material of the United States, damages for libelous publication in the District of Columbia, action in the District prompted by an intentional error for trial collection on basis of forum non conveniens because the magazine had been written and published in Germany.

#### 10. Courts — 260.4

Trial judge has discretion to apply forum non conveniens; weighing of relative hardships of one, that abused.

Appeal from the District Court, for the District of Columbia.

\* Sitting by designation § 292(d)

The Scientology Church, Washington, D. C., is organized under the laws of the District of Columbia, which engages in the practice, and presently in the District of Columbia, of the Church of Scientology. The Church of Scientology is a religious organization, and its members are known as Scientologists. The Church of Scientology is a religious organization, and its members are known as Scientologists. The Church of Scientology is a religious organization, and its members are known as Scientologists.

2. The article, which appeared in App. 9, 12, described two women as "West German residents" of Scientology.



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have been brought in a foreign jurisdiction rather than in the United States but a foreign jurisdiction cannot necessarily be substituted for the jurisdiction of the forum in which to require the rights of the parties to be determined.

#### 9. Courts — 260.4

Where both allegedly defamed plaintiff and distributor of magazine were residents of the United States, where plaintiff sought damages for libelous publication in the District of Columbia, and where bringing of action in the District of Columbia was not prompted by an intent to vex or harass, it was error for trial court to decline jurisdiction on basis of forum non conveniens merely because the magazine in question had been written and published in West Germany.

#### 10. Courts — 260.4

Trial judge has great, but not unlimited, discretion to apply doctrine of forum non conveniens; where there has been no weighing of relative advantages of each forum but only a consideration of the drawbacks of one, that discretion has been abused.

Appeal from the United States District Court, for the District of Columbia.

\*Sitting by designation pursuant to 28 U.S.C. § 292(d).

1. The Founding Church of Scientology of Washington, D. C., is a nonprofit corporation, organized under the laws of the District of Columbia, which engages in the active exercise, practice, and proselytization of "Scientology" in the District of Columbia. App. 1. It will hereinafter be referred to as the "Church" or the "Church of Scientology." The Church is apparently affiliated in some way with other churches of Scientology in other jurisdictions, both domestic and foreign, but the exact nature of this relationship does not appear in the record.

2. The article, which appears in English translation at App. 9-12, describes the terrorization of two women by West German Scientologists, reports on the recruitment there of new "victims" of Scientology, and notes an investiga-

Samuel H. Seymour, Washington, D. C., for appellant. Earl C. Dudley, Jr., Arlington, Va., was on the brief for appellant.

Irvin E. Hoffman, Washington, D. C., for whom Edgar H. Brenner and Werner Kronstein, Washington, D. C., were on the brief for appellee German Language Publications, Inc.

Before McGOWAN and MacKINNON, Circuit Judges, and McMILLAN,\* United States District Judge for the Western District of North Carolina.

Opinion for the court filed by Circuit Judge MacKINNON.

MacKINNON, Circuit Judge.

In this diversity action the Founding Church of Scientology of Washington, D. C.<sup>1</sup> sued (1) the author, editor, publisher, and distributor of an allegedly defamatory article which appeared in the July 1973 edition of the German-language magazine *Neue Revue*, and (2) an official of the West German federal criminal investigating authority who allegedly aided in the preparation of that publication.<sup>2</sup> The district court dismissed the suit on the grounds (1) that it lacked personal jurisdiction over any of the defendants under the District of Columbia "long arm" statute<sup>3</sup> and (2) that suit in the District of Columbia was barred under the doctrine of *forum non conveniens*.<sup>4</sup> Appeal.

tion into the activities of Scientologists by the West German Federal Criminal Affairs Bureau.

Of a total of approximately 1,400,000 copies of the issue in question, 56 reached the District of Columbia where they were distributed to four news dealers who are not parties to this action; of the 56 copies, 40 were sold and the rest returned.

3. D.C. Code § 13-423 (1973).

4. Virtually identical suits in New York and California have been dismissed on these grounds. See *Church of Scientology of California v. Herald*, No. C-66230 (Superior Court for the County of Los Angeles, March 12, 1974), 172 N.Y.L.J. No. 1 at 13 (July 1, 1974) [Appellate's Supp. Appendix at 8]. Other suits have been filed in West Germany (both Munich and Wiesbaden), Holland, and Canada. On October 21, 1975, the appellee filed with this court a copy of a November 1974 decision by the Wiesbaden court holding that the article was not



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Translation

Doc

8651

E. Mohr Mersing

OFFICE COPY OF THE SHERIFF'S COURT'S RECORDS

for

THE CITY OF COPENHAGEN COURT

Received  
June 17, 1980

On the 2nd June at 13.15 o'clock in the afternoon the Sheriff's Court was formed by Judge Laif Sørensen at the Court House.

Case Forb. 78-389-043560 - prohibitive injunction case was heard:

Court Stamps

The Scientology Church of Denmark

v.

1) Det Bedste fra Reader's Digest ApS

and

2) Mr. Mogens Nielsen, Editor, responsible under the press law.

For the plaintiffs appeared Mr. Bent Falk-Rønne, Attorney, who produced the application of 7th May, 1980 with exhibits 1a-1d.

For the defendants appeared Mr. Erik Mohr Mersing, Attorney, who produces exhibits A-A.

The attorneys stated the case.

Mr. Falk-Rønne changes the claim to be as follows:

"Det Bedste fra Reader's Digest ApS" and Mr. Mogens Nielsen, Editor responsible under the press law, shall be prohibited from publishing or circulating the following statements contained in Eugene H. Methvin's article: "Scientology. Anatomy of a Frightening Cult."



1. "His churches have paid him a certain percentage of their gross profits usually 10 percent and have enormous riches hidden in bank accounts in i.a. Switzerland, all this is controlled by Ron Hubbard and his wife."

2. "The Scientology priest carefully notes all intimate confidences i.a. sexual or criminal activities or problems in marriages and families. According to the church's own documents and to affidavits from "defectors", such notes are filed with a view to extorting a member (or a member's family) who may raise problems by threatening to defect, go to the authorities or start hostile propaganda."

Mr. Mersing claims that the injunction shall not be allowed to be proceeded with, primarily according to section 647(2) and alternatively in pursuance of section 648(2) of the Danish Administration of Justice Act.

Eugene H. Methvin explains - duly admonished - that he is senior editor at Reader's Digest in Washington D.C. where he has been employed since 1960. His fields are i.a. criminality and extremist organizations etc. He has for several years collected material about the Scientology movement and since 1st December 1979 he has worked whole-time on the article in the May issue of Reader's Digest. The article is based on material from the Scientology movement and on material from legal actions and court inquiries. The information in the article has been examined and checked 100%. This also applies to the statements for which a prohibitive injunction is claimed. These statements are based on Scientology material, court inquiries and information from defected members. He has not directly talked to persons who have said that they paid money to Switzerland, but he has talked to an official representative from the Scientology movement in Switzerland who neither confirmed or denied that 10 percent of the gross profits were paid into accounts in Switzerland. This conversation took place in February 1980. The information about extortion comes from many sources, i.a. Scientology documents and information from a former priest in the movement, Miss MacLean. The witness is certain that this form pressure also takes place in Denmark as the churches always obey orders from Ron Hubbard.



As a witness appeared David Otis Fuller jr., who duly admonished - states that he is a member of The New York Bar, and that he is employed by Readers's Digest Legal Department. Before it was published he read Methvin's article and found that according to existing law in New York, it was legal to publish the article.

Mr. Mersing, Attorney, substantiated exhibits A-A and pleaded the case. In support of his claim for dismissal in pursuance of section 647(2) of the Administration of Justice Act he stated that the statements concerned are based on actual facts and are thus true, that the statements do not in particular aim at Danish conditions and therefore are not unlawful in relation to the plaintiffs, that the statements are not in fact unlawful since the press has a particularly wide freedom of expression with regard to religious and political movements, and that besides the article is an expression of legal retaliation, cf. exhibit Z.

In support of his claim for dismissal in pursuance of section 648(2) of the Administration of Justice Act, Mr. Mersing stated that in all circumstances it must be presumed that the provisions of the Criminal Code give the plaintiffs sufficient legal protection.

Finally Mr. Mersing has claimed that the plaintiffs are ordered to pay costs and in this connection he has informed that the defendant's expenses in connection with the calling of witnesses amounts to 50 - 100,000 Dkr.

The case was stayed for continued procedure on Monday the 9th June, 1980 at 1 o'clock in the afternoon.

The Sheriff's Court was adjourned  
Leif Sørensen

c o o

On the 9th June, 1980 at 1 o'clock in the afternoon the Sheriff's Court was formed by Judge Leif Sørensen at the Court House.

The following Prohibitive Injunction case was heard:



The Scientology Church of Denmark

v.

1) Det Bedste fra Reader's Digest ApS

and

2) Mr. Mogens Nielsen, Editor, responsible under the press law.

(last heard on June 2, 1980, page 389).

For the plaintiffs appeared Mr. Bent Falk-Rønne, Attorney, who produced exhibits 2-10.

For the defendants appeared Mr. Mønsing, Attorney, who produced Exhibit A-1 and B-1.

As a witness appeared Mr. Per Schiøtz, who duly admonished - explains that he has been a priest in the Scientology Church for the past 10 years, 9 of which was spent in Denmark. For about 1 year he has been priest in USA and various other countries. He gives spiritual guidance for about 7 hours a day and he has administered such guidance in about 12,000 instances. Notes are taken of what people tell him. This is first of all done in order that the supervisor can check that the priest has given the spiritual guidance correctly. The notes are filed in a locked safe to which only the supervisor and 3 priests of the church know the code. The witness has never disclosed things confided in him, and he knows for certain that this does not take place in the church. Nor is there any extortion, force or pressure towards members of the church or other persons.

Mr. Falk-Rønne, Attorney, proved the exhibits 1 - 10 and pleaded the case. In support of his claim for the injunction, he stated that the statements for which injunction is claimed attacks on the plaintiff's honour as they contain i.a. accusations of criminal offences. The accusations affect the Scientology Church as a whole, and the Danish Scientology Church must be entitled to legal protection against such accusations. He found that it was proved that the statements concerned

incorrect, and that the conditions for an injunction to be issued be fulfilled. Furthermore he did not find that the general rules of criminal legislation give sufficient legal protection to the plaintiffs. He finally found that an injunction should be issued without any security being placed as the defendant would not suffer any loss in this connection and that no compensations for costs should be awarded in connection with the hearing of the case.

Gene H. Methvin stated - again duly admonished - that exhibits M, N and some from the District Court in Washington D.C. Judge Ritschie released these and other documents in the fall of 1979. The exhibits have been procured by the F.B.I.

Reply and Rejoinder were exchanged between the attorneys. During this exchange Mr. Mersing stated that Methvin's article would be brought in the August issue of Det Bedste.

At 15.15 o'clock the following Order was issued:

O R D E R

It is not found that in the evidence produced there is proof that the statements for which an injunction is claimed to prohibit publication and circulation are true or untrue.

In deciding the case the basis must, however, be that the statements which have already been published in several other countries, that is i.e. in the U.S.A., West Germany, France and Norway do not in particular aim at Danish conditions. With respect hereto the court does not find that it has been verified that a publication of the statements in this country is unlawful in relation to the plaintiffs.

Irrespective that it could be assumed that a publication or circulation of the statements would be against the plaintiffs' rights on account of their general nature, it must otherwise be assumed that the punishment which the general rules of the law provide for for such an offence give sufficient protection to the plaintiff, cf. section 648(2) of the Administration of Justice Act.



It is therefore not found that the application for a prohibitive injunction shall be proceeded with and not against security placed by the plaintiff either in accordance with section 647(1) of the Administration of Justice Act.

It is found that the claim made by the defendant's attorney for an award of costs should under the circumstances be admitted to the extent stated below.

THE DECISION OF THE COURT IS:

The injunction claimed shall not be proceeded with.

The plaintiffs, the Scientology Church of Denmark are ordered within 14 days from this Order to pay costs of Dkr 2,000.- to the 2 defendants "Det Bedste fra Reader's Digest A/S" and Mr. Mogens Nielsen, Editor.

Leif Sørensen

Mr. Falk-Rønne, Attorney reserved the right to appeal the order to the Eastern Division of the Danish High Court.

The Court adjourned

Leif Sørensen

THIS IS TO CERTIFY the correctness of the Office Copy. The City of Copenhagen's Sheriff's Court this 11th day of June, 1980.

By order

(signature)

Translation

Shorthand Report of Hearing of witnesses

in

The Eastern Division of the Danish High Court,  
Division 14,

Wednesday, March 11, Thursday, March 12, Friday, March 13,  
and Monday, March 16, 1981.

Jakob Andersen - Scientology

503/1978 (7043)

Mr. Jørgen Jacobsen, Attorney

Mr. Jakob Andersen, Reporter

v.

Mr. Erik Jensen and Mr.  
V. Leifer, Attorneys

Mr. Per Olof Jørgensen, Mr. Robert  
("Bob") Metzler, Mr. Peter Jensen  
and the Church of Scientology Denmark

cf. 386/1976 (6538)

Mr. Jakob Andersen

v.

The Church of Scientology Denmark  
represented by Mr. Carl Heldt, Priest,  
Mr. Allan Juvoner, Priest, Mr. Carl  
Heldt, Priest and Mr. Peter Jensen,

cf. 393/1979 (6638)

The Church of Scientology Denmark

v.

Mr. Jakob Andersen

cf. 398/1979 (6739)

Mr. Jakob Andersen  
Walter H. Bowart

cf. 416/1979 (6977)

Mr. Jakob Andersen

v.

The Church of Scientology Denmark,  
Mr. Peter Jensen, Priest and Mr. Erik  
Hærest, Editor

prepared by authorized court stenographer Mr. Bjørn Einersen



Testimony of Ms. Vibeke Damman, Oslo

PRESIDING JUDGE: You have been summoned to appear in this court to give evidence on the request of the plaintiff. You must know that you are liable to tell the truth in court, and that you give evidence on oath.

JACOBSEN: In which period have you been in Scientology?

DAMMAN: I started in October, 1973 and ended in November, 1979.

JACOBSEN: In which period have you been with Guardian's Office?

DAMMAN: From the middle of 1978 until November 1979

JACOBSEN: In which capacity? What was your position?

DAMMAN: I started as something called project organizer. It is an event which is arranged by scientologists in various parts of the world, and at that time it was arranged in Copenhagen. It was my job to see to it that it went well.

LEIFER: Couldn't we have it made clear....

JACOBSEN: I would like not to be interrupted by Mr. Leifer.

LEIFER: Yes, but ...

PRESIDING JUDGE: Your opponent has asked that you do not interrupt this testimony.

LEIFER: Well, but there have been incorrect statements already.

PRESIDING JUDGE: That may be, but during the cross-examination you will get the opportunity to ask questions about it.

JACOBSEN: What did you end as? In which position did you end?

DAMMAN: I became head of the bureau which is called Social Coordination. I was there until May, 1978 when I became Director of Rehabilitation within the same bureau.

ERIK JENSEN: Now I have to interrupt. I could not hear the witness.

JACOBSEN: Were you "Assistant Guardian"

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DAMMAN: No. Yes, that is Assistant Guardian for Social Coordination.

PRESIDING JUDGE: I understood that you had been there from 1973 till 1979. When was it that you got that position?

DAMMAN: When I became head of the bureau called Social Coordination, from December, 1976 until May, 1978 when I became Director of Rehabilitation within the same bureau. I had that position until November, 1979.

LEIFER: I would like to say that what I was interested in having clarified was where Mrs. Damman worked, because as far as I know, she did not work at time of the conversation in question with Mr. Jørgensen at Jernbanegade 6, and she had no connection with Mr. Jørgensen.

PRESIDING JUDGE: Well, but....

LEIFER: Then it is not very important if she has no connection with him.

JACOBSEN: Time is running. It takes five minutes and then I am not allowed to examine my witnesses.

LEIFER: We must stick to what is important and relevant..

JACOBSEN: You should have thought about that when you examined your witness.

PRESIDING JUDGE: That's enough now.

JACOBSEN: And about time. I would like to ask you: What is the function of Guardian's Office.

DAMMAN: To take care of all outside public, i.e. people who are not already in the Scientology organization. That public is people who are against scientology, it is the press, well, lawsuits - like this one - it is all, how do you put it, "charitable" work in quotes.

LEIFER: Why quotes?

PRESIDING JUDGE: Mr. Leifer, you really must stop now.



DAMMAN: I will get back to that.

JACOBSEN: I would like to ask you: Was it Guardian's Office special job to fight enemies of Scientology?

DAMMAN: Yes, it is especially that they deal with.

JACOBSEN: What's the channel of command? Who is at the head of Guardian's Office? At the end of your line there?

DAMMAN: The Guardian's Office where I worked?

JACOBSEN: In Copenhagen.

DAMMAN: In Copenhagen it is Bob Metzler.

JACOBSEN: Who was his immediate superior?

DAMMAN: Jane Kember.

JACOBSEN: Is it so that the Guardian's Office Denmark cannot do anything important, e.g. bring an action, without the approval of the Guardian's Office World Wide in England?

DAMMAN: Yes.

JACOBSEN: Does that mean that all actions which are brought in this country are brought in accordance with instructions from or conference with Guardian's Office World Wide?

LEIFER: Sorry, but that is a leading question.

JACOBSEN: I am getting very tired of listening to Mr. Leifer's interruptions.

LEIFER: And I am tired of listening to the way you ask questions.

PRESIDING JUDGE: Please leave that to me. There is no reason at all to believe that any problems will arise. It is the party's own witness.

DAMMAN: I don't mind answering. It is correct that any lawsuit which takes place in Copenhagen is first programmed from the Guardian Office, and then it is sent to the Guardian's Office World Wide for approval, revision, and then it is sent back here to be carried out.

JACOBSEN: Are decisions made elsewhere sometimes - not only decisions I mean, but the very decision that anything is to be done at all - without anything being said about it from Denmark?

DAMMAN: Sorry, I did not understand the question.

JACOBSEN: Well, it may not be very easy. There has been a libel action against Professor Schulsinger. Do you know anything about it?

DAMMAN: Yes, I have written about it too.

ERIK JENSEN: Now I cannot hear again. Would Mrs. Damman please speak directly to the judge.

JACOBSEN: Tell briefly about who made the decision to bring an action for libel against Professor Schulsinger.

DAMMAN: That decision was made at the Guardian's Office World Wide in England.

ERIK JENSEN: Good, thank you.

PRESIDING JUDGE: We can avoid this confusion if you speak as loud as possible - and if the other side keeps quiet.

DAMMAN: Yes that would be nice.

JACOBSEN: How do you know that?

DAMMAN: I saw the program when it came from the Guardian Office World Wide. It was written at World Wide before it came to Denmark. It came to the place where I worked the Guardian's Office Europe, and then the order was that it was to be carried out at the Guardian's Office Denmark.

The suggestion for the program has probably been made from Denmark, but approved in England and cannot be carried out in Denmark without approval i.e. in England.

JACOBSEN: What do you mean by "the program"?

DAMMAN: A program is written where you proceed step by step. There are many things to be done when an action is to be brought.



First you have got to find proof and then the whole action is planned in phases in advance before it is carried out, before summons and complaint is issued, or whatever it may be. For instance, in the Schulsinger case the group involved is to - it was the Citizens Commission on Human Rights - that group must receive instructions and training in what they are going to say when they appear in court, etc. All these things are written down in various phases. E.g. Item 1: Get hold of Ingelise Hooernaert. Item 2: Tell her what to say in court. Item 3...

JACOBSEN: Does that in fact mean that a program is prepared for how the scientologists are to explain in court?

DAMMAN: Yes.

JACOBSEN: A program is made?

DAMMAN: Yes.

JACOBSEN: Is it so that the scientologists are encouraged to say something other than the truth? I can hardly believe that.

DAMMAN: Yes.

LEIFER: Now I must point out one thing. Earlier today a witness was told that the witness should observe the duty as a witness. This witness should be aware that in all probability the Church will make her responsible for what she says here as perjury.

PRESIDING JUDGE: You know your duty as a witness. I assume that you have fully realized the situation in advance.

LEIFER: I Conducted the case against Schulsinger and won it.

JACOBSEN: So Mr. Leifer has the floor more than I do.

PRESIDING JUDGE: I am doing my best. But on the other hand, I think that should be granted that Mr. Leifer was right at this time to interrupt. I point out that he on his part would warn the witness - in the same manner you warned his witness earlier today. There must be an adequate balance

JACOBSEN. Yes, it could have been said from the beginning.

You say that you know that instructions have been given that if necessary the scientologists are to lie in court, and you hold to that under oath?

DAMMAN: Yes.

JACOBSEN: Where have you seen it?

DAMMAN: I have seen it because at one time I was involved in writing out the program the legal department here sent for approval. Phase by phase is written what witnesses, if any, in a lawsuit which was in Holland were to explain in court, and it included outright lies. I knew that at the time I was writing it out.

LEIFER: Excuse me, Holland....

PRESIDING JUDGE: Now you stop.

LEIFER: But it was against Schulsinger.

PRESIDING JUDGE: Mr. Leifer, we have always been on good terms with each other. You are the oldest attorney in this city and enjoy great respect.

LEIFER: That is correct, but I was the one who conducted the case against Schulsinger, and it had nothing to do with Holland.

PRESIDING JUDGE: That may be so, but we must have peace now. Otherwise I will not be able to preside in a manner which all can be satisfied with.

JACOBSEN: Have you personally received or carried out orders from the world headquarters?

DAMMAN: Yes.

JACOBSEN: Have you ever received orders to the effect that there should be made to annoy a person or institution?



DAMMAN: Yes.

JACOBSEN: Could you give some examples?

DAMMAN: Yes. The National Society for the Welfare of the Mentally Ill (Sjæforeningen for Sindslidendes Vel, LSV). As head of the Social Elimination bureau I ran or directed i.e. the group which was called the Citizens' Commission on Human Rights. Its object is to annoy psychiatrists. So its declared aim is to have human rights introduced for psychiatric patients, but with regard to the National Society for the Welfare of the Mentally Ill we also got instructions to see to it that LSV was annoyed as much as possible by the things we could come up with.

DR. JENSEN: Excuse me, what is LSV?

JACOBSEN: The National Society for the Welfare of the Mentally Ill. It has been said several times.

DAMMAN: There were instructions from England that we should take care to go after that society as much as we could. We appeared at meetings and tried to confuse the meetings and were to take care that anything we got to know about the society which could be interpreted negatively was spread to the press etc. in an attempt to sort of putting them in a bad light.

JACOBSEN: Can you mention any examples of a person?

DAMMAN: Within the LSV or generally?

JACOBSEN: Yes, I asked you if you had received orders to try to annoy any person or institution.

DAMMAN: Yes, Mr. Finn Jørgensen psychiatrist at the Saint Hans Hospital for mentally ill.

JACOBSEN: Any other examples?

DAMMAN: Not that I can recall right now.

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Feb 2 1981

LORETTA H. HARRIS

BY Cheryl Strong

Case No. A202573  
IV  
C

IN THE EIGHTH JUDICIAL DISTRICT COURT OF THE STATE OF NEVADA  
IN AND FOR THE COUNTY OF CLARK

Church of Scientology of Nevada, a )  
non-profit corporation, on behalf )  
of itself and its members; and )  
Charles Orr, President, Church of )  
Scientology of Nevada, )

Plaintiffs,

COMPLAINT

vs.

Michael Flynn,

Defendant.

Plaintiffs complain of Defendant and allege as follows:

PARTIES

1. The Plaintiff, the Church of Scientology of Nevada, is a non-profit corporation organized pursuant to the provisions of Sections 81.290 through 81.340 of the Nevada Revised Statutes, whose principal office is in Las Vegas, Nevada, whose members practice and adhere to the religious beliefs, tenets and principles of the religion of Scientology. The Church brings this action on behalf of itself and all of its members.

2. The Plaintiff, Charles Orr and other members of the Church of Scientology of Nevada are residents of the State of Nevada and members in good standing of the Church of Scientology of Nevada.

3. The Plaintiff and its members practice the religion of Scientology. Scientology is an applied religious philosophy which seeks, through the use of pastoral counseling procedures,

United States District Court

FOR THE

DISTRICT OF NEVADA-LAS VEGAS

CIVIL ACTION FILE NO.

CHURCH OF SCIENTOLOGY OF NEVADA, etc., et al.

Civil-LV 80-10 HEC

vs.

JUDGMENT

LA VENDA VAN SCHAICK, et al.,

decision

This action came on for ~~XXXXXX~~ before the Court, Honorable Harry E. Claiborne

, United States District Judge, presiding, and the issues having been duly ~~decide~~

~~XXXX~~ and a decision having been duly rendered,

It is Ordered and Adjudged that the Motion to Dismiss, filed on behalf of the Defendants Van Schaick, Flynn, Hoffman and Walters, and each of them, is granted;

IT IS FURTHER ORDERED and ADJUDGED that the within action is dismissed with prejudice as to all Defendants;

IT IS FURTHER ORDERED and ADJUDGED that the Clerk of the Court shall enter Judgment of Dismissal;

IT IS FURTHER ORDERED and ADJUDGED that, in light of the above, the following Motions submitted to the Court concurrently herewith are deemed moot and hence not decided:

- a). The Motion to Compel Appearance and Answer to Questions and for Sanctions re. Witness Tonja Burden, as characterized by this Court in its Minute Order dated March 27, 1980;
- b). The Motion for Change of Venue, filed on behalf of Defendants;
- c). The Motion for a Protective Order, filed on behalf of Defendants Van Schaick, Flynn and Hoffman.

Dated at Las Vegas, Nevada, this 28th day  
of April, 1980.

ENTERED

CAROL C. FITZGERALD

Clerk of Court

APR 29 1980

CLERK, U.S. DISTRICT COURT  
DISTRICT OF NEVADA  
BY ~~XXXXXX~~ DEPUTY

By:

Lorraine Murphy  
Deputy Clerk

RECEIVED  
APR 29 1980  
CLERK OF COURT  
HARRY E. CLAIBORNE



COMMONWEALTH OF MASSACHUSETTS

SUFFOLK, SS.

SUPERIOR COURT  
No. 40906

CHURCH OF SCIENTOLOGY OF BOSTON, INC.,  
ON ITS OWN BEHALF AND ON BEHALF OF ITS  
MEMBERS; ROBERT JOHNSON; AND JANE DOE,

PLAINTIFFS,

v.

MICHAEL J. FLYNN, LUCY GARFITANO, STEVEN  
GARRITANO, JAMES GERVAIS, AND PETER GRAVES,

DEFENDANTS.

COMPLAINT

INTRODUCTION

1. This suit arises out of the unlawful taking of membership lists, financial records, and other property owned by the plaintiff, Church of Scientology of Boston, Inc., a non-profit religious organization incorporated under the laws of Massachusetts. The documents and other property at issue were taken from the plaintiff Church without authority, by several of the defendants acting in concert. None of the materials have been returned to their lawful owner, the plaintiff Church.

# The Church of Scientology of Boston

ack  
1/15/80

448 Beacon Street, Boston, Massachusetts 02115 Phone: (617) 266-9500, Telex: 94-0297



HAND DELIVERED

GENERAL COUNSEL  
MASSACHUSETTS BAR OF OVERSEERS

January 15, 1980

RE: Michael J. Flynn, Esq.  
1 Fanuiel Hall  
Boston, Mass.

**RECEIVED**  
OFFICE OF THE  
BAR COUNSEL

JAN 16 1980

Dear Sir,

Please accept the following as an official complaint to the Massachusetts Bar Association concerning the conduct of one Michael Flynn in connection with the case of LaVenda Van Schaick vs The Church of Scientology of California, United States District Court for the District of Massachusetts, Docket Number 79-2491-G.

Based upon information received from individuals and other Churches Michael Flynn has embarked upon a hate-campaign calculated and announced to destroy all Churches of Scientology everywhere. His campaign centers around an entirely frivolous suit against various sister Churches of Scientology and individual Scientologists, in which Michael Flynn seeks to enjoin the practice of the religion of Scientology - an injunction no court could possibly grant so long as our American Constitution stands.

Specific acts complaint of, under the Code of Professional Responsibility follow:

1. INITIATION OF THE SUIT - Per DR 7-102 A) In his representation of a client a lawyer shall not 1. File Suit, assert a position, conduct a defense, delay a trial or take other action on behalf of his client when he knows or when it is obvious that such action would serve merely to harass or maliciously injure another. Prior to filing the suit, Michael Flynn met with Church counsel and made the following statements, "That the best way to destroy Scientology was financially" That the material he had was "explosive

L. RON HUBBARD - FOUNDER

Scientology is an applied religious philosophy. A non-profit organization in the U.S.A. registered in Massachusetts.  
President-Robert E. Johnson, Jr. Vice-President-Joseph S. Francis Secretary-Mrs. Karen Rhena Treasurer-Maureen Hagles



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opposite conclusion.<sup>2</sup> Congress has obviously been aware of the interplay between these various open records acts, and in the instances just noted it specifically indicated when the exemptions of one act should not apply to disclosures mandated by another. We therefore decline inferentially to limit the scope of 5 U.S.C. § 552(b)(3) where Congress has not specifically indicated an intent to do so.

Accordingly, we reverse the district court's summary judgment in favor of Painter, and remand with instructions to consider the applicability of the Privacy Act exemption (k)(5), 5 U.S.C. § 552a(k)(5), to the material sought by Painter as to which the government claimed the Privacy Act exemption applied.

REVERSED in part and REMANDED with instructions.



CHURCH OF SCIENTOLOGY OF CALIFORNIA, a Non-Profit Corporation, under the laws of California, Plaintiff-Appellant,

v.

John McLEAN and Nancy McLean,  
Defendants-Appellees.

No. 79-2629

Summary Calendar.\*

United States Court of Appeals,  
Fifth Circuit.

April 18, 1980.

In a slander suit, plaintiff moved to disqualify one of defendant's two attorneys.

2. We note that in a recent case, *Trikel v. Kelley*, 599 F.2d 214 (7th Cir. 1978), the Seventh Circuit reached the same result we have arrived at here. That court said:

Although the Freedom of Information Act does not contain a comparable exemption [to Privacy Act exemption (k)(5)], we agree with the lower court that the two statutes must be read together, and that the Freedom of Information Act cannot compel the disclosure of

The United States District Court for the Middle District of Florida, Wm. Terrell Hodges, J., denied the motion and plaintiff appealed. The Court of Appeals, Alvin B. Rubin, Circuit Judge, held that: (1) the attorney's consulting with the plaintiff about a zoning matter did not bar his representing the defendant in this case where there was no evidence that any issue in this case was ever discussed with the attorney or that he had any confidential information about it, and (2) the appeal was frivolous and the defendant was entitled to damages caused by the appeal, including a reasonable attorney's fee and double costs.

Affirmed.

#### 1. Attorney and Client ⇐21

Lawyer need not disqualify himself in matter concerning former client unless terminated or employment had some substantial relationship to pending suit or unless he had received some privileged information.

#### 2. Attorney and Client ⇐32

To warrant disqualification of counsel, there must be showing of reasonable possibility that some specifically identifiable impropriety occurred and likelihood of public suspicion must be weighed against interest in retaining counsel of one's choice. ABA Code of Professional Responsibility, Canon 9.

#### 3. Attorney and Client ⇐21

Defense counsel in slander suit was not required to disqualify himself because plaintiff had previously consulted with him about a zoning matter where there was no evidence that any issue in slander case was

information that the Privacy Act clearly contemplates to be exempt.

599 F.2d at 216. Our holding, however, is not so broad. We only hold that material exempted from disclosure under the provisions of the Privacy Act are matters "specifically exempted from disclosure by statute" under 5 U.S.C. § 552(b)(3).

\* Fed.R.A.P.P. 34(a); 5 Cir. R. 18.



ever discussed with counsel or that he had any confidential information about it.

#### 4. Federal Civil Procedure — 274:

Where appeal from district court's refusal to disqualify opposing counsel was frivolous, appellees were entitled to damages caused by appeal, including reasonable attorney's fee and double costs. F.R.A.P. Rule 38, 2d U.S.C.A.

Allen L. Jacobi, North Miami, Fla., for plaintiff-appellant.

Baskin & Sears, Robert K. Hayden, Clearwater, Fla., for defendants-appellees.

Appeal from the United States District Court for the Middle District of Florida.

Before GEE, RUBIN and POLITZ, Circuit Judges.

ALVIN B. RUBIN, Circuit Judge:

The Church of Scientology of California filed a counter suit against John and Nancy McLean, citizens of Canada and ex-Scientologists. The McLeans are represented by Robert Hayden, a partner in the law firm of Baskin & Sears. Elihu Berman is associated with that law firm and plans to assist Hayden in defending the suit. Before Berman joined that firm, the church had consulted with him about a zoning matter. It has filed a motion to disqualify Berman and the law firm in this suit on the basis that "topics were discussed [with Berman] which are substantially related to the cause of action before the court." The trial judge denied the motion as it related to Hayden and the law firm, and reserved ruling on the motion as it pertained to Berman. Later, he also denied the motion as to Berman. This appeal is from that order; it apparently, therefore, pertains only to the ruling concerning Berman.

Whether an order refusing to disqualify counsel is appealable is an issue now before this court en banc. *Wilson P. Abraham Construction Corp. v. Arrow Steel Corp.*, No. 79-2007, hearing en banc ordered (5th Cir. Oct. 22, 1979). However, we assume

for the moment that there is jurisdiction because, whether or not the appeal applies only to Berman, it is groundless and there is no reason further to delay this case.

[1] The church has not offered a scintilla of evidence that any issue in this case was ever discussed with Mr. Berman or that he has any confidential information about it. While lawyers are expected to avoid even the appearance of impropriety, they are not required to sterilize their affairs to avoid baseless charges. A lawyer need not disqualify himself in a matter concerning a former client unless the terminated employment had some substantial relationship to the pending suit or unless he has received some privileged information. See *Brennan's, Inc. v. Brennan's Restaurants, Inc.*, 580 F.2d 168, 171-72 (5th Cir. 1979). Cf. *Woods v. Covington County Bank*, 537 F.2d 894, 813 (5th Cir. 1976) (former government attorney is not disqualified from civilian employment in a matter for which he had substantial responsibility in government in absence of reasonable possibility of impropriety.) The church's brief to this court asserts that, during the course of Mr. Berman's consultation with its representative, information was given to Mr. Berman so that he could assess the problem with which the [church] was faced and certain advice given by Mr. Berman in reference to those problems. After the consultation Mr. Berman billed the Church of Scientology of California and received compensation therefrom.

During this consultation topics were discussed which substantially related to the subject matter of the instant litigation and related to the Clearwater City Commission, including the Ex-Mayor, Gabriel Cazares, who appears on the Defendant's List of Witnesses as is also the case with one Ronald Schultz, the County Property Appraiser. The same hostilities which are the essence of the case sub judice were the very problems which the plaintiff faced in reference to the zoning problems involving the property which they wished to purchase.

M

13



CHURCH OF SCIENTOLOGY OF CAL. v. COOPER

455

Cite as 455 F.Supp. 455 (1980)

Accordingly, we hold that Appelles did justifiably rely on the Government's conduct, which we have held was unjustifiable. We emphasize that our holding of estoppel under these circumstances is limited to the situation where (a) a procedural not a substantive requirement is involved and (b) an internal procedure manual or guide or some other source of objective standards of conduct exists and supports an inference of misconduct by a Government employee. *Cf. Hansen v. Harris, supra.*

Accordingly the court will issue an appropriate Order reversing the Secretary's denial of divorced mother's benefits and judgment will be entered for the plaintiff. Further this case will be remanded to the Secretary for determination of back benefits.

The Clerk is directed to send certified copies of this Memorandum Opinion to all counsel of record.



CHURCH OF SCIENTOLOGY OF CALIFORNIA, a corporation, Plaintiff,

v.

Paulette COOPER, Defendant.

No. CV 78-2053-AAH(PX).

United States District Court,  
D. C. California.

June 18, 1980.

On a motion for recusal, the District Court, Hauk, J., held that recusal was ap-

propriate where the district judge's impartiality might be questionable, even though the plaintiffs' motion for recusal was erroneous in its allegations.

Motion granted.

1. Judges — 51(3)

Factual allegations contained in affidavit in support of motion for recusal must be taken as true and court has no power or authority to contest in any way whatsoever the necessary acceptance of truthfulness of facts alleged, even though court may be aware of facts which would indicate clearly the falsity of any such allegations. 28 U.S.C.A. §§ 144, 455(a).

2. Judges — 51(1)

Recusal was appropriate where trial judge's impartiality might be questionable, even though plaintiffs' motion for recusal was erroneous in its allegations. 28 U.S.C.A. §§ 144, 455(a).

Kaplan & Randolph by Mark Vincent Kaplan, Los Angeles, Cal., for plaintiff.

Morgan, Wentzel & McNicholas by Darryl Dmytriw, Los Angeles, Cal., for defendant.

DECISION AND ORDER GRANTING PLAINTIFF'S AFFIDAVIT FOR DISQUALIFICATION AND REASSIGNMENT OF CASE AND NOTICE TO COUNSEL

HAUK, District Judge.

This matter has now come on for bearing in the above-entitled Court on Monday, June 18, 1980, at 1:00 p. m. upon plaintiff's Motion for Recusal, pursuant to 28 U.S.C.

RECEIVED  
JUN 18 1980  
U.S. DISTRICT COURT  
LOS ANGELES, CALIF.



§ 144<sup>1</sup>; 28 U.S.C. § 455(a)<sup>2</sup> and Canon 3 C of the Code of Judicial Conduct<sup>3</sup>; the Affi-

davits of Muriel Yassky,<sup>4</sup> and Rebecca Chambers,<sup>5</sup> and the Certificate of Good

1. § 144. Bias or prejudice of judge

Whenever a party to any proceeding in a district court makes and files a timely and sufficient affidavit that the judge before whom the matter is pending has a personal bias or prejudice either against him or in favor of any adverse party, such judge shall proceed no further therein, but another judge shall be assigned to hear such proceeding.

The affidavit shall state the facts and the reasons for the belief that bias or prejudice exists, and shall be filed not less than ten days before the beginning of the term at which the proceeding is to be heard, or good cause shall be shown for failure to file it within such time. A party may file only one such affidavit in any case. It shall be accompanied by a certificate of counsel of record stating that it is made in good faith.

2. § 455. Disqualification of justice, judge, or magistrate

(a) Any justice, judge, or magistrate of the United States shall disqualify himself in any proceeding in which his impartiality might reasonably be questioned.

3. C. Disqualification

(1) A judge shall disqualify himself in a proceeding in which his impartiality might reasonably be questioned, . . .

4. STATE OF CALIFORNIA )  
COUNTY OF LOS ANGELES )

I, Muriel Yassky, do hereby depose and say:  
On July 19, 1979, I was present on the premises of the United States District Court, Central District of California, located in Los Angeles.

I was working in a voluntary capacity for the Church of Scientology. My function as a volunteer was to perform various duties necessary to the smooth running of the Church related litigation which was ongoing at the time. I was serving in a logistic liaison capacity.

At about 10:15 a. m. I was entering the elevator at the Spring Street side of the court house building. I was accosted by a man who yelled "Who are you?" and then he yelled, "Do you work here?"

He then grabbed me by the arm and forcefully pulled me out of the elevator.

I asked him to identify himself and he did so. He identified himself as Judge Hawk.

Judge Hawk ordered me over to the Guard's table and escorted me there.

I did not have any identification with me, so Judge Hawk ordered the Guard to accompany me to the witness room where my purse was located to obtain the identification.

During the whole period of time that I observed Judge Hawk's behavior, he was very irate. He angrily recounted something about posters and stickers being put up. Apparently the posters had something about Marshals assassinating government witnesses. Judge Hawk referred to this and said he was sick of it. He asked me while at the Guard Table if I was with Scientology. I answered affirmatively. He asked me how long I'd been with Scientology. I answered fifteen years. He asked if I were a member of "this Guardian Office." I answered negatively.

While his anger was directed at me personally, he repeatedly questioned me on my connection to Scientology and intermittently made reference to the posters. Judge Hawk informed the Guard that if, while taking me to check my identification, I gave the guard any trouble to, "slap her in irons and bring her to me."

As soon as the Judge left, the Marshal walked me back to check my identification and we amicably settled the situation.

/s/ Muriel Yassky  
Muriel Yassky

Subscribed and sworn to before me, this 14th day of May, 1980.

[seal]

/s/ Ben Mustard  
Notary Public

5. MARK VINCENT KAPLAN

Attorney for Plaintiff

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA



## 457

Cite as 405 F.Supp. 455 (1980)

NO. CV 78-2053

AFFIDAVIT OF DISQUALIFICATION OF  
HONORABLE A. ANDREW HAUKE

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF LOS ANGELES )

CHURCH OF SCIENTOLOGY OF CALIFOR-  
NIA.

3. The facts and reasons for the belief that such personal bias and prejudice does in fact exist are as hereinafter set forth in the Affidavit on file of MS. MURIEL YASSKY and the foregoing Memorandum of Points and Authorities, and I hereby affirm that all the information contained therein is true and correct to the best of my knowledge and forms the basis of my belief in the existence and extent of the bias of the Honorable A. ANDREW HAUKE.

2. The Plaintiff herein believes and avers that the judge before whom this action has been transferred and is now pending, Honorable A. ANDREW HAUKE, has a personal bias and prejudice against the said Plaintiff,

18/ Rebecca Chambers  
REBECCA CHAMBERS, CHURCH OF  
SCIENTOLOGY OF CALIFORNIA

/s/ Bon Mustard  
NOTARY PUBLIC

[scat]

CHURCH OF SCIENTOLOGY OF )  
CALIFORNIA, a corporation, )  
Plaintiff, )  
vs. )  
PAULETTE COOPER, )  
Defendant. )

NO. CV 78 2053 F (PX)

### CERTIFICATE OF GOOD FAITH

1. That I am counsel of record for the Defendant CHURCH OF SCIENTOLOGY OF CALIFORNIA in this cause;

2. That as such I am familiar with the Affidavit of MURIEL YASSKY, made and filed to attain the recusal of the Honorable ANDREW A. HAUKE under 28 U.S.C. § 144.

3. That I am familiar with the contents of said Affidavit and the reasons it is made and filed in this cause and states that said Affidavit

is and was made in good faith and I have sought to examine all the participants with regard to these allegations set forth in Affidavit of Muriel Yassky and that I have found that examination and investigation fully support the veracity of said allegations and find them to be true to the best of my information and belief based on these interviews and examinations.

4. That this Certificate is made in support of the Affidavit for Recusal and is made to fulfill the express requirements of 28 U.S.C. § 144.

Note 6 continued on next page.



said now makes its Order and Decision granting said Motion for Recusal.

#### FINDINGS AND CONCLUSIONS

[1] Since they are based upon 28 U.S.C. §§ 144 and 455 and Code of Judicial Conduct, Canon 3 C, we are required to examine plaintiff's Affidavits and Certificate to determine if they meet the tests required by the United States Code and said Canon, namely, those of (1) timeliness and (2) legal sufficiency. If they do, then the factual allegations contained in the Affidavit must be taken as true and the Court has no power or authority to contest in any way whatsoever the necessary acceptance of truthfulness of the facts alleged, even though the Court may be aware of facts which would indicate clearly the falsity of any such allegations. *Berger v. United States*, 255 U.S. 22, 33, 41 S.Ct. 230, 65 L.Ed. 481 (1921); *Botts v. United States*, 413 F.2d 41 (9th Cir. 1969); *United States v. Tropiano*, 418 F.2d 1069 (2d Cir. 1969); *Lyons v. United States*, 325 F.2d 370 (9th Cir. 1963), cert. den. 377 U.S. 969, 84 S.Ct. 1650, 12 L.Ed.2d 738 (1964). See also: *United States v. Zarowitz*, 326 F.Supp. 90, 91 (C.D.Cal.1971), *United States v. Zarilli*, 328 F.Supp. 706, 707 (C.D.Cal.1971), *Spires et al. v. Hearst*, 420 F.Supp. 304, 306-307 (C.D.Cal.1976), *State of California et al. v. Kleppe*, 431 F.Supp. 1344 (C.D.Cal.1977),

and *Hayes v. National Football League et al.*, 463 F.Supp. 1174 (C.D.Cal.1979). Cf.: *Mavis v. Commercial Carriers, Inc.*, 408 F.Supp. 55, 58 (C.D.Cal.1975).

While perhaps not essential, it does seem to us appropriate, that we should now affirm that the Judge herein does not have, nor did he ever have, any personal bias or prejudice in the slightest degree for or against any of the parties to the case, cause and proceeding herein, and more particularly, does not now have and never did have any such personal bias or prejudice in the slightest degree against the Church of Scientology, plaintiff herein. Nor has the Judge ever knowingly or unknowingly given any cause for allegations of any such alleged personal bias or prejudice, or belief therein or suspicion thereof.

At the outset it might be argued with some possible justification that the plaintiff's Affidavits and Certificate are not "timely" within the meaning of 28 U.S.C. § 144, since they were not filed until May 16, 1980, whereas the action herein was transferred to this Court from the Hon. Warren J. Ferguson on December 27, 1979. However, it should be noted that this Court's Clerk received from plaintiff's counsel, Mark Vincent Kaplan, Esq., a letter addressed to the Court dated February 4, 1980,<sup>1</sup> requesting the Court to recuse itself

Note 6—Continued  
Dated:

LAW OFFICES OF MARK VINCENT KAPLAN

By: /s/ Mark Vincent Kaplan  
MARK VINCENT KAPLAN

7. February 4, 1980  
The Honorable A. Andrew Hauk  
Judge of the United States  
District Court  
312 N. Spring Street  
Los Angeles, California 90012  
Re: Church of Scientology of California v.  
Paulette Cooper  
Case No. CV 78-2053-F (Px)

Dear Judge Hauk:

Please be advised that I am the attorney of record for the Church of Scientology of California in the above-referenced matter. As the file in this matter will clearly reflect, I was substituted as counsel of record on or about the date

of October 15, 1979. Within the last two weeks, it has come to the attention of my client and myself, that a bias exists on behalf of the Court in this matter. As will hereinafter be more fully set forth, the result of this bias compels me to request that this Honorable Court disqualify itself on the basis of the alleged bias regarding the Church of Scientology of California.

I am writing this letter on an informal basis and should the Court so desire, I will proceed, if necessary, with a formal affidavit and certificate of good faith pursuant to 28 U.S.C. § 144 and § 455, as hereinafter indicated.



CHURCH OF SCIENTOLOGY OF CAL. v. COOPER

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Cite as 686 F.Supp. 656 (1988)

from the matter herein. The Clerk's response to this request was made in a letter

from Law Clerk Brian A. Sun to Mr. Kaplan, dated February 11, 1980,<sup>8</sup> indicating to

Finally, I wish to state that although my attention was first addressed to the factual criteria which give rise to this letter within the last few weeks, I have awaited sufficient documentation from my client for the purposes of documenting the events which are alleged to have occurred.

As we are all aware, the transfer of this case before this Honorable Court from the Court of Judge Ferguson was a result of the elevation of Judge Ferguson to the Ninth Circuit Court of Appeals. I pursue this matter with the Court at this time inasmuch as there have been no substantive proceedings regarding the subject case addressed to this Court to date.

The factual incidents which have given rise to the opinion of my client, in which counsel joins, are as follows:

1. On or about July 19, 1979, one Muriel Yassky, a member of the Church of Scientology, was present at the United States District Court building for the Central District of California. Ms. Yassky was standing outside the elevators on the fourth floor when, it is alleged, that Your Honor ordered Ms. Yassky out of the elevator and proceeded to direct Ms. Yassky to the guard's table for the purpose of identifying herself and her purposes for being in the Court-house building. It is further alleged that Your Honor requested Ms. Yassky to identify whether she was with Scientology and/or with "this guardian office", referring to the office of the Church of Scientology.

2. Evidently, at the time of the incident, posters had been placed upon Courthouse property indicating, in substance, that marshals were responsible for the killing of government witnesses. Ms. Yassky indicated that from the manner in which Your Honor focused upon her presence and her affiliation with

Scientology, that Your Honor seemed to equate the responsibility for the posting of these anti-government slogans with members of the Church of Scientology. From the data available to the undersigned, there is no reason why the presence of anti-government posters in the Courthouse should any way have been automatically equated with the presence of Scientologists in the Courthouse. I am prepared, if necessary, to supply affidavits from the principals involved in this matter to substantiate the relevant factual allegations.

The undersigned joins in the good faith belief of my client that the facts of the subject incident indicate that there exists on behalf of the Court, a bias towards members of Scientology as well as Scientology as an organization. I would be prepared, if necessary, to file a formal affidavit and certificate of good faith placing before the Court our request for disqualification in the above-referenced matter pursuant to 28 U.S.C. § 455, 28 U.S.C. § 144, Canon 3 C of the Code of Judicial Conduct as amended to date.

Finally, I respectfully request that this Court reassign the above-referenced matter to a different Court in accordance with local Rule 2 as well as other applicable rules and orders of this Court.

The exercise of your sound discretion will be greatly appreciated and I remain ready to proceed should the Court so desire.

Sincerely,

LAW OFFICES OF KAPLAN  
AND RANDOLPH  
MARK V. KAPLAN

MVK/la

RECEIVED  
FEBRUARY 11 1980  
U.S. DISTRICT COURT  
LOS ANGELES

8.

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA  
UNITED STATES COURTHOUSE  
LOS ANGELES, CALIFORNIA 90013

CHAMBERS OF  
A. ANDREW HAUKE  
UNITED STATES DISTRICT JUDGE

February 11, 1980

Mark V. Kaplan, Esq.  
Law Offices of Kaplan and Randolph  
11620 Wilshire Boulevard  
Sixth Floor  
Los Angeles, California 90025

Dear Mr. Kaplan:

In response to your letter of February 4, 1980, you should be advised that Local Rule 1.8 of the Rules of the United



Mr. Kaplan that this Court would not act upon his letter because his ex-parte communication with the Court was inconsistent with and in violation of Local Rule 1.8 of the Rules of the United States District Court, Central District of California.

While the Court, therefore, has some doubt about the validity of measuring "timeliness" by the five week interval which elapsed between the date of transfer of this case from Judge Ferguson and Mr. Kaplan's February 4, 1980, letter, rather than by the five month interval between Judge Ferguson's transfer and the filing of the within Motion, the Court nevertheless finds that the herein Affidavits and Certificate were timely, and Mr. Kaplan's letter-writing efforts to bring this Motion to the attention of the Court, while not made in accordance with the Local Rules and accepted practice, were apparently made in good faith and sufficiently set forth legal "timeliness."

Now, the next question is whether or not the Affidavit and Certificate are "legally sufficient" within the meaning of the same statutory sections and Canon. Certainly they appear to be and the Court so finds. They are in proper form; they assert alleged facts and not just conclusions of law; and so, in line with the cases the Court has previously cited, they are legally sufficient. The only question left is whether facts are alleged which require the Judge to disqualify or recuse himself under 28 U.S.C. § 455(a) and Code of Judicial Conduct, Canon 3 C.

States District Court, Central District of California, entitled "Correspondence and Communications with the Judge," clearly states that attorneys "should refrain from writing letters to the Judge" of an ex parte nature or "otherwise communicating with the Judge unless opposing counsel is present." Judge Hauk follows a policy which adheres to the aforesaid rule and would expect your request to be submitted in the proper written form and notice given to all parties involved. At that time, your recusal request will be addressed by the Court.

If you have any questions regarding this matter, please do not hesitate to contact me.

Sincerely,  
/s/ Brian A. Sum  
Brian A. Sum  
Law Clerk to  
Judge A. Andrew Hauk

As stated earlier, the Court recognizes that the factual allegations contained in the Affidavit must be taken as true and the Court has no power or authority to contest in any way whatsoever the necessary acceptance of truthfulness of the facts alleged, even though the Court may be aware of facts which would indicate clearly the falsity of any such allegations. In that regard, and for the record, the Court strongly takes issue with the alleged facts asserted in the Affidavits of Muriel Yasky and Rebecca Chambers, and the Certificate of Good Faith of Mark Vincent Kaplan, Esq.

The so-called "elevator incident" referred to in plaintiff's moving papers did not occur exactly as alleged. On July 19, 1979, upon Judge Hauk's driving into the Courthouse garage, Federal Protective Service Contract Guard Officer Jennifer Jackman, guarding the entrance to the Main Street Garage, told Judge Hauk that a number of stickers had been found pasted to the front door of the building, the sentry box on the Spring Street Parking level, and elsewhere, labeling the United States Marshals as assassins. She reported to Judge Hauk that she had also heard about an episode of a lady found wandering in a Judge's private hallway.

Acting in his capacity as Vice Chairman of the Security Committee, and Acting Chairman in Judge Firth's absence, and carrying out the duties delegated to him by the mandatory and unanimous Order of all



of the Judges of this Federal District Court, Judge Hauk proceeded to inquire further into these reports. He checked with the United States Marshal's Office who reported that they had heard of the same incidents and told him that copies of the label were in the Federal Protective Service Office on the Main Street level. Judge Hauk proceeded there and saw one of the labels, green background with black printing, and the legend:

"U. S. Marshals Are  
Assassinating  
Governments Witness."

Judge Hauk then went out into the Main Street lobby area to discuss with the Federal Protective Service Contract Guard there, Walter H. Bonner, whether or not he (Bonner) had seen any unusual or improper activities with respect to the pasting of the labels, the use, or misuse, of the Main Street garage and Spring Street parking area by any unauthorized persons, or any other activities indicating any breach of security in the Courtrooms or Courthouse. At that time, Judge Hauk noticed, standing between himself and the officer, near the officer's desk, and in the space immediately adjacent to the elevators, a young lady, apparently endeavoring to eavesdrop upon Judge Hauk's conversation with the Officer. When Judge Hauk looked at her, she turned her eyes up and pretended not to be listening or interested in what he was saying.

Judge Hauk went over and asked her what she was doing in the building and she replied "Oh, nothing in particular." He asked her again what she was doing, and she again said "Nothing in particular." The Judge asked her name, and she refused to give it to him, and said she was going upstairs "for a cup of coffee."

Whereupon Judge Hauk asked her to come over to the officer's desk, and escorted

her to said desk to answer a few questions. She came over and Judge Hauk asked her name, address and telephone number, requesting the Officer to write them down as she gave them—Muriel Yassky, 5959 Franklin Avenue, Apt. 407, Hollywood, California 90028, phone no. 462-0135. Judge Hauk further asked her for her I.D., which she said was "upstairs in the waiting room." At that point, the Chief Deputy Marshal, James L. Propotnick, appeared on the scene and Judge Hauk asked him to go with the young lady to the waiting room and check out the I.D. she mentioned. At no time did Judge Hauk ever state that Ms. Yassky should be "slapped in irons" if she resisted the Marshals.

[2] Despite the problems the Court has with the factual allegations contained in plaintiff's motion, and despite the Court's firm recollection and conviction that the allegations are false, it feels compelled and bound to follow the more prudent course of granting the plaintiff's Motion for Recusal. Canon 3 C(1) and 28 U.S.C. § 455(a) mandate that a Judge shall disqualify himself whenever "his impartiality might reasonably be questioned." The Court herein finds that plaintiff's Motion for Recusal, while indeed false and erroneous in its allegations, is based upon what Ms. Yassky and plaintiff's counsel apparently feel is reasonable. Moreover, it has been said in some cases and by some authorities that recusal should be granted, pursuant to the aforementioned Canon 3 C(1) of the Code of Judicial Conduct, and 28 U.S.C. § 455(a), in such a situation, even when the Court is in doubt as to the "reasonableness" of an affiant's belief. This conclusion is reached on the basis of the Court's recognition of the sensitive nature of the case itself and the principles underlying the pertinent sections of the United States Code and the Code of Judicial Conduct, as well as other relevant

a. U. S. Marshals Are  
Assassinating  
Governments Witness

COURT STREET



factors governing Judicial disqualifications, having in mind that when in doubt the Court should resolve the issue in favor of the party seeking recusal. *E. g. Mims v. Shapp*, 541 F.2d 415, 417 (3d Cir. 1976); *Hodgson v. Liquor Salesmen's Union*, 444 F.2d 1344, 1348 (2d Cir. 1971). Of course, this does not constitute any finding or conclusion that the plaintiff's allegations are factually true or have any real substantive merit, nor does it have any bearing whatsoever upon the merits of the basic cause of action.

Edward B. BAKER, Ann Britt  
Baker, Plaintiffs,

v.

Richard Joseph MURPHY, Mary Lou  
Murphy and Citibank, N. A.,  
Defendants.

Civ. Nos. 79-582, 79-2030.

United States District Court,  
D. Puerto Rico.

June 23, 1980.

#### ORDER

NOW, THEREFORE, IT IS HEREBY  
ORDERED:

1. That the undersigned Judge does hereby disqualify and recuse himself from any and all further matters in the within case, cause and proceeding, pursuant to 28 U.S.C. § 455(a) and Canon 3 C(1) of the Code of Judicial Conduct, as amended to date, and pursuant, of course, also, to the Affidavits and Certificate filed herein by and on behalf of the plaintiff;

2. That the within case, cause and proceeding be and the same hereby is returned to the Clerk for random transfer and reassignment by the Clerk to another Judge of this District Court, Central District of California, in accordance with the applicable Rules and Orders of this Court, particularly General Order No. 104, filed January 13, 1971, Part Two, Section One, Paragraph I; and

3. That the Clerk serve copies of this Decision and Order forthwith by United States mail on counsel for all parties appearing in this case, cause and proceeding.

Action was brought alleging breach of contract. Upon defendants' motion to dismiss plaintiff's filed third amended complaint, the District Court, Gierbolini, J., held that third amended complaint alleging that defendants "upon information and belief are presently citizens of the State of New Jersey and of the United States of America" failed to distinctively and positively aver citizenship sufficient to form basis for diversity jurisdiction; furthermore, as plaintiffs had repeatedly failed to adequately plead jurisdiction in spite of opportunities given to amend their complaint, plaintiffs would be denied any further opportunities to amend.

Complaints dismissed.

#### 1. Federal Courts — 29, 31

Jurisdiction is a threshold determination that cannot be waived and it must appear from face of the complaint.

#### 2. Federal Courts — 39

Courts in federal system must, at all stages of a proceeding, make certain of possessing power to act.

#### 3. Federal Courts — 34

Burden of establishing jurisdiction of a federal court is on the party invoking it.

#### 4. Federal Courts — 312

Allegations that a party is a resident of certain state is insufficient to form basis for diversity jurisdiction since, consistently with that averment, he may be a citizen of any other state.





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UNITED STATES DISTRICT COURT FOR THE MIDDLE  
DISTRICT OF FLORIDA, TAMPA DIVISION

TONJA BURDEN,

Plaintiff,

vs.

CHURCH OF SCIENTOLOGY OF  
CALIFORNIA, et al.,

Defendants.

CASE NO. 80-501-CIV. T-K

MOTION FOR DISQUALIFICATION

Defendant, CHURCH OF SCIENTOLOGY OF CALIFORNIA, moves for disqualification of the Honorable Ben Krentzman, pursuant to 28 U.S.C. Section 455, and as grounds therefor states:

(1) His impartiality in these proceedings might reasonably be questioned.

(2) A person within the third degree of relationship, to wit his son, John Krentzman, Esquire, has, as Assistant State Attorney, an interest that could be substantially affected by the outcome of the proceedings.

(3) His rulings at the hearing on October 23, 1980, and his written Order of October 31, 1980, have created the appearance of bias and prejudice against the Defendant, Church of Scientology of California.

WILSON, WILSON, NAMACK & JAFFER  
CHARTERED

27 South Orange Avenue  
Sarasota, Florida 33577  
(813) 955-8124  
Attorneys for Defendant

By:

CLYDE H. WILSON, JR.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing has been furnished by U. S. Mail to the following attorneys:

Walt Logan, Esq.  
6641 Central Avenue  
St. Petersburg, FL 33710

Tony Cunningham, Esq.  
708 Jackson Street  
Tampa, FL 33602



Michael J. Flynn, Esq.  
12 Union Wharf  
Boston, MA 02109

Thomas M. Greene, Esq.  
12 Union Wharf  
Boston, MA 02109

on this 20<sup>th</sup> day of November, 1988.

By: 

CLYDE H. WILSON, JR.

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15



# SCIENTOLOGY'S WAR AGAINST JUDGES

BY JAMES B. STEWART, JR.

On September 5, 1980, as U.S. District Court Judge Charles Richey was recuperating from two pulmonary embolisms and exhaustion, lawyers for the Church of Scientology and the Justice Department gathered before Judge Aubrey Robinson, Richey's successor in the two-year-old conspiracy case against 11 members of the Church of Scientology. Judge Richey had already convicted and sentenced nine of the original 11 defendants, but the remaining two, recently extradited from England, were about to go on trial.

"Particularly from the standpoint of your Honor's feelings about these defendants who are members of the Church of Scientology..." began John Shorter, Jr., a lawyer for one of the defendants. He was interrupted by Judge Robinson. "You want to raise a motion to recuse?" the judge asked. He knew what Shorter's remark foreshadowed, having witnessed the Scientologists' campaign to drive Judge Richey off the case. "Is this a fishing expedition?"

Robinson is the fourth D.C. district court judge to preside over the Scientology case and the latest target of the Scientologists' self-proclaimed "attack" litigation strategy. Their strategy amounts to an all-out war against the D.C. district court judges, a war much more sophisticated, better financed and more successful than the bizarre tactics used by some other groups against their courtroom adversaries, such as Synanon's attempt to murder an opposing counsel by putting a rattlesnake in his mailbox.

Unlike Synanon, the Church of Scientology has long sought to distinguish itself as a legitimate religion. Founded in 1954 by L. Ron Hubbard, a science fiction writer, philosopher and author of the best-selling book *Dianetics: The Modern Science of Mental Health*, the church claims five million adherents to its self-help philosophy. The Church of Scientology has called itself the spiritual heir of Buddhism in the western world, and focuses on what it calls "pastoral counseling" to increase its members' abilities and awareness.

But in the past few years, the church has been accused of brainwashing and harassing its members, and it has become embroiled in dozens of lawsuits (see sidebar, page 32), including the 1978 criminal conspiracy charges against 11 of its members. Such setbacks have triggered increasingly militant responses, which focused, in the conspiracy case, on the federal judiciary. The Scientologists' legal strategy has been to force the recusal of every judge assigned to that case.

Judges lie at the root of the pending criminal charges against the Scientologists. In 1976, D.C. District Court Judge George Hart, Jr., casually proposed a deposition of Hubbard in conjunction with one of many Freedom Of Information Act suits filed by the church. Hart's remark (no deposition ever proved necessary) caused Scientology officials to believe that the government knew something incriminating about Hubbard. As a result the

church intensified its efforts to learn what information the government might possess.

At the same time, the church was issuing "Guardian Programme Orders" (directives to church members) telling them to use "standard overt sources" and "any suitable guise interviews" to monitor the activities of all district court judges presiding in the FOIA suits. In 1977 that directive was extended to all 15 active judges in the D.C. federal district court.

Posing in some instances as students and journalists, Scientologists interviewed the judges, researched their careers and backgrounds, followed them and prepared dossiers. According to Scientology documents, their goal was to determine "tone level" and "buttons on"—indicia of personal vulnerability, in the parlance of Scientology. But the church's operation

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One lawyer who represents Scientologists and has worked with Boudin and Hirschkop offers this ideological defense for their taking the case: "It is a simple case of government overreaching," he says. "The government just can't tolerate an organization with nonconforming beliefs. The Scientologists stand up for their rights—aggressively." Another lawyer who has worked on the case adds a financial motive for their taking such a case: "These people pay their bills—top dollar and on time—which is more than I can say for most of my unpopular clients. This case will finance a lot of *pro bono* work." Hirschkop won't say what he has received in legal fees from the Scientologists, but the church is a pro-

## THE SCIENTOLOGISTS' LEGAL STRATEGY HAS BEEN TO FORCE THE RECUSAL OF EVERY JUDGE ASSIGNED TO THE CONSPIRACY CASE.

went far beyond legal surveillance. Members of the church were caught breaking

into the offices of the IRS and the Justice Department, stealing and copying documents and eavesdropping. On August 15, 1978, 11 Scientologists were indicted on charges of electronically intercepting oral IRS communications, forging government passes, illegally entering government buildings, recruiting Scientologists to infiltrate the government, stealing records belonging to the IRS, Justice Department and the U.S. Attorney and conspiring to illegally obtain documents in the possession of the United States and to obstruct justice.

The Scientologist defendants hired some well-known defense counsel. Mary Sue Hubbard, the wife of church leader L. Ron Hubbard and the highest ranking defendant on trial, retained Leonard Boudin of Rabinowitz, Boudin & Standard and Michael Hertzberg, a solo practitioner, both activist lawyers now practicing law in New York City. Two other defendants, Henning Heldt and Duke Snider, retained Alexandria, Virginia, lawyer Philip Hirschkop, who had been counsel for the "D.C. Nine," antiwar protesters arrested in 1970. In all, 12 lawyers were hired to defend nine defendants (two others had fled to England where they faced extradition proceedings). Boudin and Hirschkop soon assumed the leading roles in the defense.

Boudin and Hirschkop won't discuss why they were selected, but their public identification with radical and unpopular causes was undoubtedly attractive to

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Whatever their reasons for taking the case, high-minded principles have not characterized the campaign of the Scientologists' lawyers against the District of Columbia judges. In August 1978 the cases were assigned to Judge Hart, the judge whose comment had originally intensified the intelligence operation and who, like all of his fellow D.C. district court judges, had been investigated. He became the first victim of the Scientologists' recusal strategy.

Boudin filed the first recusal motion in January 1979. His theory was a novel one: by telling Judge Hart that the judge himself was a target of the Scientologists' own, possibly illegal activities, he would cause the judge to be biased, or appear to be biased, against them. In his motion, Boudin quoted a Scientology document ordering an "overt" and "covert" data collection operation against Judge Hart, which, in Boudin's words, "possibly [included] the use of methods violative of the judge's privacy and other rights and possibly violative of the criminal laws." Boudin concluded that "the sitting judge is revealed to the jury and the public as a victim of possibly illegal actions," and "the judge has an obvious interest which may be affected by the outcome of the case." Notwithstanding documents to which government and defense counsel had access ordering similar operations on all the District of Columbia district court judges, Boudin declared that he knew of no other such campaigns.



# SCIENTOLOGY'S WAR AGAINST JUDGES

BY JAMES B. STEWART, JR.

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Although government lawyers, led by chief prosecutor Raymond Banoun, protested vigorously, arguing that the Scientologists were using their own possibly illegal activities to disqualify the judge, Hart granted the recusal motion and stepped down. Hart denied that he was biased but he agreed that the appearance of impartiality had been tainted by the Scientologists' surveillance operation against him. "I was afraid a jury would be prejudiced against the defendants because of their alleged threats against me," Hart said recently.

The case was assigned next to Judge Louis Oberdorfer, who in light of Judge Hart's recent experience asked for memoranda and oral arguments from both sides at the outset indicating potential grounds for disqualification. Government lawyers pointed out in their memo that Oberdorfer was formerly an assistant attorney general in charge of the tax division of the Justice Department, which had prosecuted a case that ended the tax-exempt status for the founding Church of Scientology in Los Angeles in 1969. Oberdorfer concluded that he had "personal knowledge of disputed evidentiary facts," and on February 5, 1979, he too stepped down.

Shortly afterward the case fell to Richey, a 1971 Nixon appointee whose liberal record—especially in the area of defendants' rights—surprised early critics. The assignment initially pleased the Scientology defendants. In a pamphlet called "The Trial of the Scientology Nink," prepared by the Scientologists, Judge Richey was

described as having "a very fatherly visage... though crippled with a congenital defect in his hip, one does not notice either limp or his shortness. His glasses glint from the lights of the courtroom add to the picture of a man of deep intelligence and sympathy." And when Richey, too, asked at the outset for a recusal motion if one were planned, Boudin and Hirschkop said they were satisfied with his assignment to the case. That attitude was soon belied by a campaign of harassment that took place out of the courtroom.

During the summer of 1979, court sessions were held for about three weeks in Los Angeles, where Richey scheduled testimony on the Scientologists' motion to suppress evidence seized by the FBI in 1977 raids of the church's headquarters. The thousands of documents seized those raids constituted the core of the evidence against the alleged conspirators. The hearings had been moved to Los Angeles to accommodate the Scientologists' witnesses.

Prior to his departure for Los Angeles, Richey received several death threats. A judge has never publicly alleged that the threats came from Scientologists and he said they were unrelated to the case, but flew to California escorted by two federal marshals, and elaborate security precautions were implemented at the federal courthouse in downtown Los Angeles.

During the hearings, defense lawyers repeatedly interrupted the proceedings with objections, motions and audible cu-

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The four targets of the Scientologists' litigation strategy (left to right): Anthony Robinson, Charles Richey, and O

mentary, including insults to the judge. For example, Hirschkop and other counsel repeatedly and loudly ordered co-counsel to place adverse evidentiary rulings in a mythical "error bag." On several occasions, Hirschkop accused Richey of lying. At times, Richey left the bench and walked out rather than hold defense counsel in contempt. Only once, at a later hearing, did the judge seem to boil over: speaking to Hirschkop, Richey said, "I want to tell you right here and now, I resent it because I have done nothing to hurt you or your clients. And this record is replete with insults and everything else, when I have not done it to you and don't intend to." Banoun, the prosecutor, says Richey was too accommodating. "He should never have tolerated such behavior," Banoun says.

Hirschkop claims that he was the one who was insulted. "Richey showed contempt for me," Hirschkop says, recalling the time when, he claims, Richey tried to "force-feed" him French fries in court. (Banoun says the judge simply offered all the counsel some French fries he had not finished at lunch.) "I called Banoun a liar," Hirschkop continues, "and the

judge admonished me. But Banoun could insult me with impunity." Banoun denies that this was true. Hirschkop concedes that he frequently became "heated" in his dealings with Judge Richey but says, "I never called him dirty names."

In September 1979, after the Los Angeles hearings, Richey denied the Scientologists' motion to suppress the evidence seized by the FBI. The defendants eventually entered into a stipulation of facts, which amounted to an admission of the principal charges against them, and waived a jury trial. In return, the government agreed to drop 23 of its 24 criminal counts.

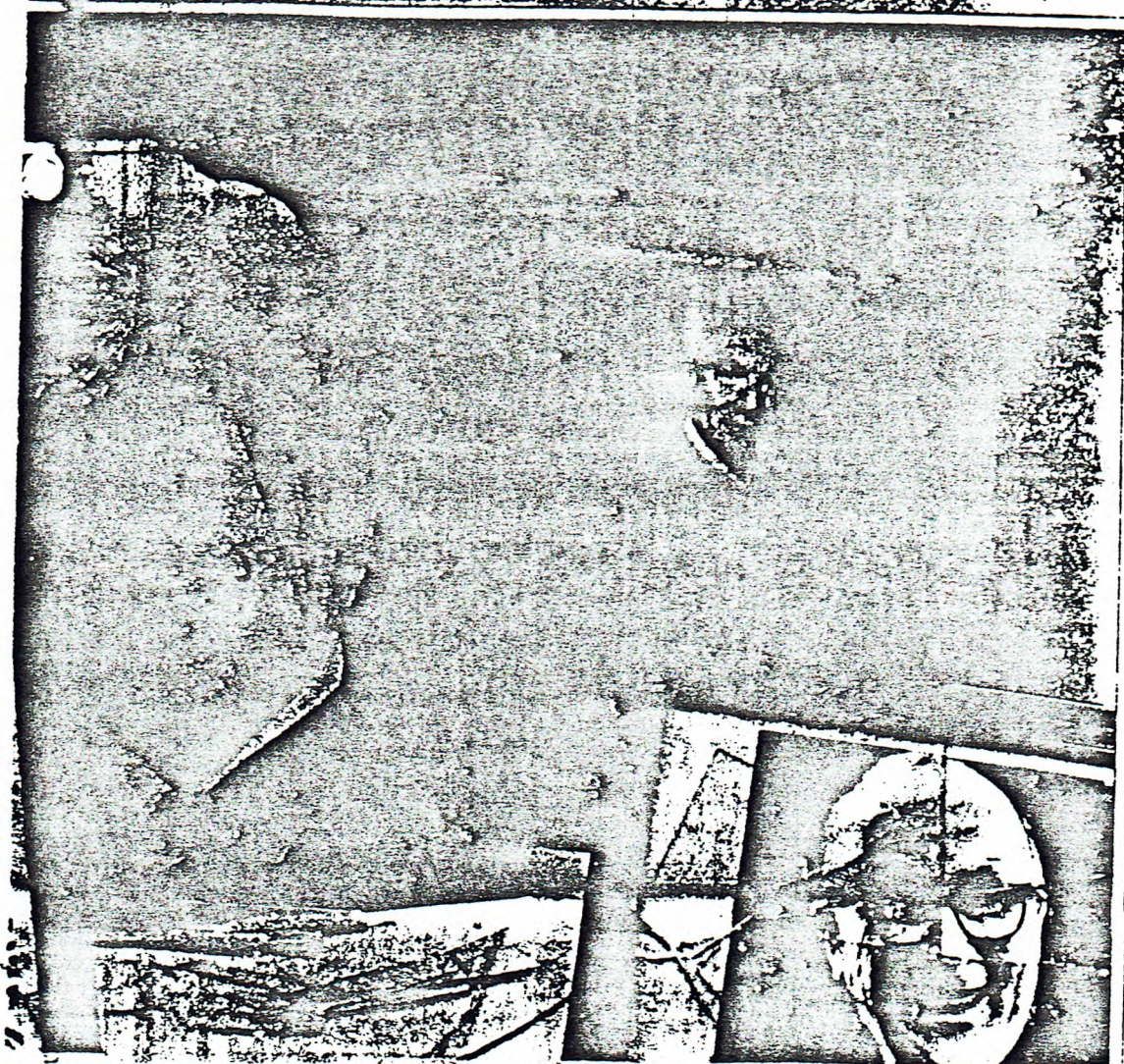
Judge Richey explicitly warned the Scientologists that the stipulation was likely to result in their conviction; he subsequently conducted his own review of the evidence, which he said was "overwhelming evidence of guilt," and on October 26, he convicted all nine. On December 6, two days before they were to be sentenced, a recusal motion against Richey was filed.

In this recusal motion, Boudin and Hirschkop again took the extraordinary position that Richey's response to their courtroom tactics and to the threats

showed that Richey was prejudiced against Scientologists. For example, without saying that the death threats were made by Scientologists, Hirschkop said that "upon information and belief, the security in Los Angeles was related to the court's apprehension with regard to the defendants in this case or their church," adding that "it is impossible to imagine a stronger—or more clearly 'extra-judicial'—source of bias than fear for one's life or well-being."

Whatever its merits, the recusal motion was patently defective in at least two technical respects. The judicial recusal statute requires a "timely" motion supported by an affidavit signed by a "party." The motion was filed four months after the events complained of—and after nearly 120 defense motions had been resolved against the Scientologists—and was supported by Hirschkop's affidavit, not one of the defendants'. ("I should have filed it much sooner," Hirschkop concedes. "Richey was grossly prejudiced from the start.") In response to the motion, Judge Richey defended his security precautions, noting that "the court may accept reasonable security precautions without risk of finding





the Scientologists' litigation strategy (left to right): Andrew Robinson, Charles Richey, Louis Oberdorfer and George Hart, Jr.

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its rulings in the case." He denied the motion and that same day sentenced the defendants to prison terms of from months to four to five years. Eight payout checks for \$10,000 the day of sentencing, and all nine are now in jail pending appeal. The denial of their first recusal motion and the sentences, which the Scientologists regarded as unconscionably biased, led to a redoubling of defense efforts to drive Richey from the case. Six months later, in June 1980, defense counsel filed with another recusal motion, damaging and threatening to Judge Richey the first. The groundwork for the motion had been laid nearly a year before, shortly after the Los Angeles hearings. That summer, Thomas Dourian, a Richey's official court reporter who accompanied him to Los Angeles, was persuaded by Hirschkop soon after return to Washington. In a sworn affidavit in response to the second recusal motion, Dourian says Hirschkop wanted to know if the security precautions in Los Angeles resulted from Richey's bias against Scientologists. In the affidavit Dourian swore he denied that the judge was







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The evening of May 23, Perry and Cain met Dourian, the court reporter, at his home in Washington. According to Dourian's affidavit, Cain introduced himself as a private investigator for International Investigations, Inc., Bast's detective agency, and told him the same story about the European industrialist.

Dourian says in his affidavit that he found the story improbable but that because his home had been burglarized and he had received threatening phone calls, which he suspected came from Scientologists, he was curious about what Cain and Perry were doing. According to the affidavit, Dourian met with Cain three more times, and each time he was questioned about Judge Richey. At a meeting at his home on May 31, 1980, Dourian says he realized that the conversation was being recorded. Cain had been drinking heavily, Dourian says, and as a result, the court reporter was able to slip a small tape recorder and three cassettes out of Cain's pocket. Dourian's last meeting with Cain was on June 19, when they met with Bast and then dined at a nearby Pizza Hut. Again, Dourian was asked about Richey, and the con-

versation was recorded.

The recordings of Dourian, along with tape-recorded statements made by Perry and statements made by Hirschkop—all collected by Bast—formed the basis for the next recusal motion against Judge Richey. The motion, largely incorporating an earlier recusal motion filed by Hirschkop, was filed on June 20, 1980, as proceedings were beginning against the two defendants recently extradited from Great Britain. For some of the Scientologists' counsel, however, the recusal strategy had gone too far. There was apparently opposition within the ranks to these motions and the way they were prepared. One lawyer, Michael Nussbaum, who represented two of the defendants, didn't sign the papers and withdrew as trial counsel.

The affidavit in support of this motion was filed by Morris Budlong, one of the extradited defendants, after he listened to various tapes and spoke to Hirschkop. Among the prejudicial remarks that Budlong attributed to Judge Richey were: that Richey's death threats emanated from Scientologists; that Jim Jones and Scientologists were "all the same"; that it would be a "feather in his hat" to convict the Scientologists; and that Richey had told another judge that Scientologists were spreading rumors about him as part of a "plot" to discredit him.

A cryptic footnote to the affidavit declined to provide details of the alleged rumors about Richey, citing "respect for the court as an institution." But Hirschkop and other defense counsel knew the details of the plot Richey alluded to. They had gotten them from Bast, who says he had combed the Los Angeles area for information about Judge Richey's personal habits, interviewing motel and restaurant employees and making videotapes and recordings. The information not revealed in the motion was taken by Bast to political columnist Jack Anderson.

The central figure in Bast's story was a self-professed Los Angeles prostitute who worked the Brentwood Holiday Inn, the motel where Richey stayed during the Los Angeles hearings. In a video recording shown to Gary Cohn, a reporter for Anderson, the prostitute recalled "in titillating detail," according to Cohn, an encounter with Judge Richey at the motel and his procurement of her services. According to Cohn, Bast also showed results of lie detector tests conducted by Cain to demonstrate that the prostitute was telling the truth; a tape recording of Perry, the U.S. marshal, claiming Judge Richey said, "Let's go get a woman"; and a tape recording of Dourian, the court reporter, saying Richey "was always picking up girls."

Cohn says that he was initially skeptical of the story because he was aware that Bast was employed by the Scientologists. But he says he had often worked with Bast and trusted him. He says he considered but rejected the possibility that the prostitute was herself a Scientologist, planted to entrap the Judge. Bast says only that his discovery of the prostitute was "accidental," that he paid her \$1,200, that she is not a Scientologist and that she is no longer streetwalking.

Cohn wrote the column, which later appeared under Anderson's by-line, focusing on Bast's investigation and Richey's procurement of a prostitute. Cohn adds that he is now "not happy" with the way the column was written. In his affidavit, Dourian, the court reporter, who has heard the tapes he stole from Cain's pocket, denies the remarks attributed to him.

Newspapers that subscribe to Anderson's column received the Judge Richey story around July 11, a week before its release date of July 18. Some of them balked at running it—the New York Daily News

decided not to publish it—and *The Washington Post* used it only after extensive conversations with Cohn. Cohn says he never reached Richey for comment, and although *Post* editor Ben Bradlee says he is sure "we did call [Richey] about the column," no comment from Richey appeared in the *Post*'s version, either.

On July 16, Richey issued his opinion. Evidently referring to the upcoming Anderson column, which Richey might have known about from reporters' calls and messages, Richey characterized the recusal motion as "this latest effort in the escalating attack on the court" and found the grounds for the motion to be "insufficient as a matter of law," resting only on "hearsay, rumor and gossip."

But, the judge continued, "defendants and their counsel have engaged in groundless and relentless attacks on this court. Their motive is transparent. It is an attempt to transform the trial . . . into a trial of this judge." Though he labeled the attempts to remove him a "classic example" of abuse of the recusal statutes, he wrote that "the time has come for the proceedings in this case to proceed on the merits with the attention of all directed at the real issues in this case." As a result, Richey withdrew from the case in a state of exhaustion and near-collapse, according to associates.

On July 18, Jack Anderson's column appeared in newspapers throughout the country. Five days later, Judge Richey was hospitalized with exhaustion and pulmonary embolisms. He has since declined all comment on the case, citing the code of judicial conduct.

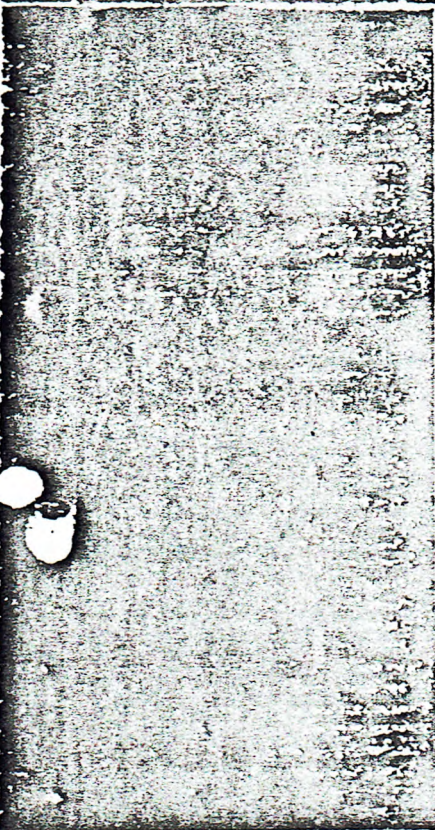
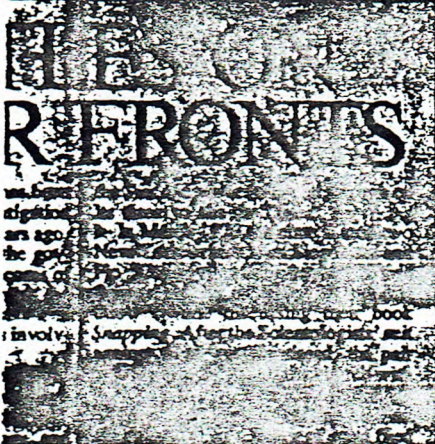
Judge Richey's ordeal may not be over. Hirschkop vows that his campaign against the judge will continue, and he claims that the prostitute affair is "only the tip of the iceberg." Although Hirschkop declines to disclose details, he says if necessary he will expose additional damaging information uncovered by Bast.

Apart from the delays, the campaign against Judge Richey has had negligible legal impact on the proceedings against the Scientologist defendants. Though an appeal is pending on a conventional search and seizure question, the convictions of the first nine stand. Trials of the remaining two defendants started in late October under Judge Robinson and are still in progress.

The activities of the Scientologists in their counsel in this case seem destined only to satisfy a commandment I. P. Hubbard once wrote:

"The DEFENSE of anything is UNDEFENDABLE. The only way to defend anything is to ATTACK, and if you ever forget that, then you will lose every battle you are ever engaged in, whether it is in terms of personal conversation, public debate, or a court of law. NEVER BE INTERESTED IN CHARGES DO YOURSELF, MUCH MORE CHARGING and you will WIN."

In its July 1980 issue the *American Lawyer* named Judge Charles Richey runner-up to the worst District of Columbia federal district court judge. The lawyer who most vehemently denounced Richey was one of the Scientologists' defense counsel, and this same lawyer also referred our reporter to other lawyers who have represented Church of Scientology defendants. The reporter, who has left our staff, says he was unaware of Scientologists' efforts to discredit and accuse Judge Richey. Without the law firm's vehemently derogatory remarks and referrals to other "sources," our reporter says he would not have named Richey in the survey.





P

16

PAC SEC BI US

BID NAT'L

26 July 1976

RE: INFORMATION  
ON INVESTIGATION OF  
JUDGE WILLIAM GREY

Dear Sandy:

As you know I have been working on the Customs sit and today I spoke with DG legal and some things needed and wanted by legal on support actions BI could do.

I know that you hav the investigations of the Judge and other opposition legal terminals. The following are sources that would really be helpful to legal in our estimate of the Judge (GPGMO 301):

A. Judges are usually very accessible and can be interviewed easily by students. Some questions to ask a Judge would be 1) "What are your favorite cases?" What about them did you like?" 2) What are the cases you disliked and what specifically did you dislike about them?". (Note: In this way legal can form their presentation along the lines of xxxxxxxx what the Judge likes and attribute to the opposition what the Judge does not like) 3) How should a case be presented? (this shows up any hidden standards the Judge has and can guide legal in their presentation).

B. Call other lawyers and get their opinion of the Judge and any other data that you can use for the investigation.

C. Find other cases the Judge has ruled on (especially similar cases to ours) and uses this in the final estimate (attaching the cases for legal).

D. Talk with the local G.C. AG Legal as this terminal has probably had dealings with the Judge - get their opinions and observations.



Pg 2.

E. If possible go to a trial the Judge is conducting and observe how he handles firsthand.

F. Find out if the Judge practiced law and what kind of lawyer he was, the general types of cases he worked on.

The above would be in addition to other source file data.

It is not rote and your investigators can develop other lines of approach, but the mx above type of data is what is needed by legal.

I would appreciate it if you would pass this on to whoever is doing the investigation of Judge Grey (Customs Judge) as it is important that we have a very thorough picture of him for the upcoming Customs hearing. (Aug 31st).

Love,

Cindy



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SE SEC BI US

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27 April 1976

*Aug 27 4:24*

CC: Nat'l Dir Sec

CC: *76715* BI US

RE: LRH SAFETY

Dear Mike:

Attached is some data that we have just received from US legal showing a Judge Hart in D.C. to be pushing for a deposition of LRH.

I would like you to get the following actions done on a very high priority and as fast as possible:

- A. A complete DDC and CDC on Judge Hart. (this can fall under the targets of SPGMO 301 but must be done very fast)
- B. Get a line in the JUDY area for immediate feedback of any proposed intention to deposition LRH. Telex all data found. You should also check out the flow line on which this type of deposition would travel and keep a daily monitor of the line.
- C. Get some type of line into Dodell (similar to the successful suitable guise line you had when you were in DC) and keep tabs on what his intentions are in the area of deposition of LRH.
- D. Also see if we can do some type of Judy action in Dodell's area to get data predicting any action to deposition.
- E. From this data and any other data in the D.C. area that might apply, have DC do up an estimate on what this situation is and what is going to happen.

Note: In doing the DDC and CDC on Hart, be sure to look for any data legal could use to get him removed from the cases,





Pg 2.

you will have to stay in liasion with legal both at the US level and at the DC Org level.

You should send me the data as soon as you get it. DC should telex (per GO 4) any vital data they get.

Love,

  
Dick



xix

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20 April 76

Dear Dick,

Re: LMH SAFETY

Yesterday, 19 Apr, we received a court transcript of an oral hearing held in regards one of our FOI cases in DC.

In this DCA FOI oral hearing held on April 14 1976, the judge handling the case (A Judge Hart) made one very very very interesting comment. It went like this.

Our Atty: Good morning your honor, etc. We think it would be very simple matter to file a motion for summary judgment.

The Court: How many of these cases have you all got before his court?

Our Atty: (Answers "about 5")...many of these agencies have voluminous documents on my client.

The Court: Have you all considered taking Hubbard's deposition?

Dodell (Gov't atty): It is an interesting thought, Judge Hart. Then he goes onto another subject regarding matters, etc.

The Court: Why don't you take his deposition?

DODELL: Well,... I will certainly relay that suggestion to them (Justice Dept) with the fact that you have reiterated are.

A copy of the entire transcript is coming your way but I wanted to give alert you to the above. Sad Scene.

Of Course, LHM has nothing to do with these cases and we will him out of any depositions if any are tried. But the fact that out the Blue the Judge made this comment is worth some investigating.

If you need any more data (or any thing) let me know.

Keep me advised of any developments.

TRC



NAT'L SID  
CC: Nat'l Sec  
DC I US

27 April 1976

*Log 27.4.76*  
cc: Roms Bill

RE: LRH SAFETY

Dear Cindy:

Attached is data re. LRH safety that we have just received from legal.

I have ordered DC (attached) on the immediate actions to be done.

I would like you to do the following from the National Section:

- A. Finish up the GPGMD 301 estimate on Dodell. We have his investigation in our files.
- B. Get together with CIC Sec and go over all the indicators that have come in for the last month or so and see if there are any other indicators of a push against LRH. Also ask each Dir Sec if they have any data and look over your own area (ie the April FOI hearings estimate; and the indicators of a gov't attack on us for harassment) and see if there are any patterns or common denominators. If so get it written up in estimate form.
- C. When the D.C. data comes in go over the data and add any national data that applies and change the estimate accordingly sending copies to Legal and PR and SE SEC. (estimate to include any other bureau suggested handlings).

Love,

*[Signature]*  
Dick



7 September 1972

DG Comm US  
DG US  
Guardian Comm WW  
The Guardian WW  
DG Info WW  
DG Info US

cc: DG Comm US  
CS-G Comm  
CS-G

RE: INTELL US WEEKLY REPORT  
W/E 7 September 72

Dear No:

SITUATION: Michael Sanders, ex-IRS Attorney in attack against Church, connected with Kaufman, Cooper and Nibs in PT.

WHY: Unknown

HANDLING: We have two agents infiltrated in office where Sanders presently works. Files on Scientology will be obtained.

SITUATION: Paulette Cooper still at large.

WHY: Right data has not been obtained and utilized.

HANDLING: Dunn & Bradstreet report obtained on her supposed boyfriend Bob Straus.

HANDLING: Rundown and transcripts of two radio shows Cooper & Nibs appeared on obtained and sent to WW.

HANDLING: Her academic transcript obtained from City University in New York and more specific info on her attendance at Columbia University obtained.

HANDLING: Obtained Dunn and Bradstreet report on Mautner Co. This company connected to Cooper family and Kaufman.

attorney  
See  
M. Nibs  
Fainton

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201-1



HANDLING: Handwriting analysis done on Cooper showing unfavorable characteristics. For use in future operation.

HANDLING: Full up-to-date timetrack on Cooper sent to WW and CS-G.

SITUATION: Michael Sanders (same as Situation #1)

HANDLING: Letter has been located that Sanders wrote to Nibs a few years ago, re the IRS case.

HANDLING: Letter found where Sanders communicating entheta on Scientology to father of Scientologist Ty Dillard.

SITUATION: Nibs Hubbard appeared on radio shows with Paulette Cooper, attacking Scientology.

WHY: Nibs has never gotten the motivator he sought.

HANDLING: Investigation underway on Nibs in P.T., as well has data in files on Nibs being evaluated for P.T. use. Cycle currently very active.

SITUATION: Judge J. Skelly Wright is one of three Judges who turned down decision on CofS.

WHY: Probable pressure from wife and others.

HANDLING: Investigation has disclosed that Helen Mitchell Wright has been made the new President-Elect of the WAMH. She will shortly begin service as president. This will, of course, put her in direct communication with the WFMH.

SITUATION: FOLO requested all data B.4 US has on Sea Org member Shereen Stuart.

WHY: Unknown.

HANDLED: Complete debrief from files turned over to FOLO. Shereen has been a pen pal for many years with a professor in Poland.

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7/2



- 3 -

SITUATION: A new staff member at Los Angeles Org,  
Piotrowski, failed to show up for work for  
several days. Report turned into Internal Security US.

REMARKS: Unknown until after interview.

ADDED: Internal Security interviewed him, found  
that recently he had set up a "drug bust" (heroin)  
in Las Vegas and that some of the friends of the  
people he had gotten busted were after him, and he  
had taken a few days off to handle this. He refused  
to give any more data. He has been dismissed from  
staff and expelled from the Church.

Love,

Terry

M/gmh

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Q

17



IN THE CIRCUIT COURT OF THE SIXTH JUDICIAL CIRCUIT  
OF THE STATE OF FLORIDA IN AND FOR PINELLAS COUNTY

RE

PROCEEDINGS TO COMPEL THE  
ATTENDANCE OF MERRELL VANNIER  
A WITNESS BEFORE THE GRAND  
JURY OF PINELLAS COUNTY,  
FLORIDA

AFFIDAVIT

DENIS J. QUILLIGAN being duly sworn deposes and says:

1. That he is the Chief Investigator for the Office of  
JAMES T. RUSSELL, State Attorney of the Sixth Judicial Circuit of  
Florida. The Sixth Circuit encompasses both Pinellas County and  
the cities of St. Petersburg and Clearwater, Florida.
2. As Chief Investigator, he is a law enforcement officer  
of the State of Florida and has been involved in a continuing  
investigation by the State Attorney's Office into certain criminal  
activities occurring within Pinellas County, Florida. The scope of  
the investigation includes inquiry into the actions of an organiza-  
tion known as the Church of Scientology (which maintains one of its  
major national offices in Clearwater, Florida) and the actions of  
its members. (hereinafter referred to as the Church for the purpose  
of convenience).
3. Review of publicly released documents seized by the  
United States Government in 1977 pursuant to a Search Warrant issued  
to the Church's California Offices has made your Affiant aware of  
planned plans by Church officials to infiltrate and discredit many  
organizations, government offices or individuals in Pinellas County  
which were critical of the Church; additionally, as detailed below,  
the plans also included attempts to falsely accuse opponents of  
illegal and scandalous activities:
  - (a) Previously released documents indicate detailed  
plans by Church officials to falsely accuse a Clearwater Sun  
reporter with sexually assaulting a young boy. An elderly female  
living as the alleged grandmother was to make a vehement accusation  
to the reporter's superiors; this was to be followed up by a male  
reporter indicating the reporter would be sued and should be arrested.



Based upon an uncontested stipulation of evidence, the defendants were found guilty after a non-jury trial. Defendants HUBBARD, SNIDER, HEIDT, WEIGAND, WILLARDSON, RAYMOND and WOLFE were convicted of conspiracy to obstruct justice. HERMANN was found guilty of conspiracy to burglarize government offices and steal government documents and THOMAS was found guilty of theft of government property. Cases are still pending against two additional Church members who have recently been extradited.

5. That a Grand Jury investigation into these and similar criminal activities of Scientology members within Pinellas County, is about to commence. The attendance and testimony of MERRELL VANNIER and his wife FRANCINE VANNIER, who are material and necessary witnesses to the investigation, is required for July 16, 1980.

6. That MERRELL and FRANCINE VANNIER are currently residing at 1036 South Main, Apartment E, Burbank, Los Angeles County, California.

7. That MERRELL VANNIER, who was and continues to be an active Scientology member, was involved in an attempt to infiltrate the offices of the State Attorney in July of 1976. VANNIER, who is an attorney, had applied as an Assistant State Attorney with the St. Petersburg Division of the State Attorney's Office. While his application was pending during July, VANNIER had access to St. Petersburg State Attorney's Office and was there on a daily basis. The State Attorney's Office was unaware that he was a Scientologist. Your Affiant's investigation has indicated that the office was a restricted area and inaccessible to unauthorized personnel. Between July 12 and 13, 1976, a portable radio belonging to the State Attorney's Office worth in excess of five hundred dollars (\$500.00) was stolen from the St. Petersburg office. This radio was tuned to the same radio band which the State Attorney's Office uses for office communication. Subsequent investigation revealed no one other than VANNIER who had both a motive and the opportunity to have taken the radio.



8. VANNIER was not hired by the State Attorney's Office but remained in the Pinellas County area. He subsequently worked for the law firm of Phillips, McFarland, Gould, Wilhelm and Wagstaff during 1977. This firm had been engaged to represent Clearwater Mayor GABRIEL CAZARES (See Paragraph 3 (d)) who had sued and was being sued by the Church of Scientology. Without informing any one of his connection to Scientology, VANNIER attempted to have CAZARES drop the case and apologize. Copies of documents prepared by VANNIER which CAZARES refused to sign are attached.

9. That the State Attorney's Office has received information that certain documents of the State Attorney's Office are in possession of members of the Church of Scientology, including personnel lists and prosecution strategy notes. It is known to the State Attorney's Office that pretext calls have been made to employees of the State Attorney's Office who have unlisted home telephone numbers but whose numbers are listed on personnel lists. Additionally, the source of the information stated that either oral communication interception devices have been placed within the office of the State Attorney in violation of Chapter 934, Florida Statutes, or that some individual has infiltrated the office of the State Attorney. Further after confidential conversations held in the State Attorney's Office regarding individuals that it was felt necessary to interview, it was discovered that these persons had left the area although they were still in the area prior to the conversations.

10. FRANCINE VANNIER is the wife of MERRELL VANNIER and is also a necessary and material witness to the investigation. She is also an active member of the Church of Scientology and would have knowledge of the Church's involvement and activities in Pinellas County.

11. That the VANNIERS moved to Pinellas County from Missouri in 1976. They left the area suddenly in September of 1977 and have only recently been located in California. That the activities detailed in Paragraph 3 occurred during the same general time frame that the VANNIERS were in Pinellas County.



12. During her stay in Pinellas County, FRANCINE VANNIER looked for the law firm of Baynard and McLeod that was handling a suit between the Church of Scientology and the St. Petersburg Times (Times' employees had been the object of previous activities by Church members as indicated in Paragraph 3 (b)). Confidential documents from Baynard's file concerning the suit were later found in the possession of the Church of Scientology. Copies of these documents were seized during the execution of a Search Warrant in California in 1977.

13. That attempts to subpoena and question witnesses from the "Church's" Clearwater Headquarters concerning the whereabouts of persons or documents which would reflect the culpability or lack of culpability of Scientology members of these and other potentially criminal acts have been repeatedly obstructed and unsuccessful due to the intentional refusal and inability of such witnesses to provide useful information.

14. MERKELL and FRANCINE VANNIER have material and necessary testimony concerning these and other matters relevant to the Grand Jury investigation. Moreover, it is believed that such testimony will shed light upon and be relevant to the Grand Jury's investigation of subsequent illegal conduct of the "Church" and "Church" members.

15. Your Affiant further requests that the material witness certificate recommend that the witnesses MERKELL and FRANCINE VANNIER be taken into custody and delivered to a member of the Pinellas County Sheriff's Department to assure their attendance in Florida before the Pinellas County Grand Jury. The basis for this request includes the following facts which have been established through your Affiant's investigation:

(a) The witnesses maintain continuing ties to the "Church" of Scientology and therefore may be reluctant and unwilling to return as witnesses in an investigation which involves the activities of the organization and its members.



(b) That the witnesses left Pinellas County suddenly without notice and have only recently been located. Previous attempts by ~~others~~ to serve MERRELL VANNIER, who is a defendant in a civil suit by CAZARES, have met with no success; when deputies attempted to serve him at a previous address in Los Angeles, the occupant denied being VANNIER and denied that any one by that name lived there but refused to identify himself.

(c) That the Office of the State Attorney has been repeatedly obstructed and frustrated in its attempts to serve subpoenas on local Scientologists possessing information relevant to its investigation; employees at the three motels operated by the Church were uncooperative with investigators, refused to identify themselves, and denied knowledge of the location of Church members residing on the premises.

(d) The Church of Scientology had previously developed a detailed secret plan to assist members in avoiding being subpoenaed as a witness against the Church. This plan, known as Project Quaker, was first identified when the FBI served a Search Warrant on the Church of Scientology Headquarters in Los Angeles, California and the document was seized under that warrant. The Project is a top secret plan to insure that any Scientologists who might be subpoenaed are not available for questioning yet kept free of any prosecution for fleeing. Basically, the Project calls for potential witnesses to be moved to other areas under the pretext of sabbatical leave; also, witnesses and officials are advised to:

- (1) Have a passport, taking care that the Church of Scientology's connection is not mentioned on any passport application.
- (2) List phony occupations.
- (3) Indicate that those persons who have flown are on sabbatical leave.
- (4) Not communicate with fellow Scientologists.
- (5) Have cash available to fund these trips.



(6) Set up safe houses in out of the way places (like ski resorts, dude ranches, Canada, etc.).

(7) Alert the entire organization to the Sabbatical cover story.

(8) In general, just not be available.

(Copies of supporting documents are attached.)

WHEREFORE, your Affiant prays that this Court issue a Certificate pursuant to Florida Statute 942.03 requesting the attendance of MERRELL VANNIER and FRANCINE VANNIER as witnesses before the Grand Jury for a period of three (3) days commencing on July 16, 1980 to be filed with the appropriate Circuit Court of Los Angeles County, California.

*Dennis J. Quigley*  
Dennis J. Quigley, Chief Investigator  
State Attorney's Office  
Sixth Judicial Circuit of Florida

Sworn to and subscribed by me this 2nd day of July, 1980.

*John F. Birch*  
CIRCUIT JUDGE

Superior → 974-1234  
-974-5171

Superior  
Court

Take witness  
order.

9 A.M.  
Judge William  
Keene

John Madden -  
Deputy, D.A.



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instructions. The defendant Hermann/Cooper informed Mr. Meisner that he had discussed their FBI confrontation with the defendant Weigand and that the latter wanted him to come immediately to Los Angeles, California. Mr. Meisner stated that he would leave the next morning for Los Angeles. Mr. Meisner and his wife stayed that night at the Quality Inn Motel on Courthouse Road and Route 50 in Arlington, Virginia. (Government Exhibit No. 113).

Mr. Meisner then called Bruce Ullman, the Information Branch II Director for the District of Columbia, and directed him to obtain money from the Guardian's Office funds and bring it to him the next morning, when he was to pick him up at an Arlington motel and take him to the National Airport for his trip to Los Angeles.

#### IV.

The Conspiracy to Obstruct Justice,  
to Obstruct an Investigation, to  
Harbor a Fugitive and to Make False  
Declarations Before the Grand Jury

##### A. The Preparation of the Cover-Up Story

On June 12, 1976, Mr. Meisner was met at the Quality Inn Motel, in Arlington, Virginia, by Mr. Bruce Ullman who



gave him money for a round trip flight to Los Angeles. Mr. Ullman drove Mr. Meisner to National Airport where Mr. Meisner took a United Airlines flight to Los Angeles. On the plane, Mr. Meisner completed his detailed report of the Courthouse incident as he had been directed to, the night before, by the defendant Weigand through the defendant Hermann/Cooper. Mr. Meisner arrived in Los Angeles at approximately noon, and went directly to the defendant Weigand's office on the seventh floor of the Fifield Manor. Defendant Weigand reviewed Mr. Meisner's handwritten report and then asked him to type it. Mr. Meisner typed it at defendant Weigand's desk. (Government Exhibit No. 114.) <sup>130/</sup> When he had finished, Mr. Meisner showed the typed report to defendants Weigand and Willardson, both of whom read it. Defendant Weigand remarked that he would take it to the defendant Heldt's office on the sixth floor. He did this and returned approximately fifteen minutes

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<sup>130/</sup> Government Exhibit No. 114 was seized and initialed by Special Agent Henry L. Williams from the office of the defendant Raymond at the Cedars Complex. The document was inventoried and also initialed by Special Agent Raymond Mislock.

later. The defendants Weigand and Willardson then, together with Mr. Meisner, analyzed the crisis to determine what leads the FBI had and how they could contain or stop the investigation. The three men decided to devise a cover story for use by the defendant Wolfe if he were arrested. The plan contemplated further that defendant Wolfe would, if captured, enter a guilty plea, after which Mr. Meisner would surrender to the FBI and give the same story to them as Wolfe had. An alternative plan had both the defendant Wolfe and Mr. Meisner surrendering immediately and giving the same cover story. All parties recognized that the highest priority lay in stopping the FBI investigation before it could connect the defendant Wolfe and Mr. Meisner to the Church of Scientology and thereby expose other officials of the Guardian's Office who had been involved in the burglaries, thefts, and buggings, described in the first conspiracy, supra. After a full afternoon of discussions, the defendants Weigand and Willardson drove Mr. Meisner to a Holiday Inn located near Hollywood Boulevard in Los Angeles, California, where Mr. Meisner



registered under a false name. That evening, they had dinner together at the motel prior to leaving Mr. Meisner for the evening. 131/

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131/ On June 11, 1976 the defendant Richard Weigand had written a lengthy report to Deputy Guardian for Information World-Wide Mo Budlong, outlining the events which had taken place in the United States Courthouse in the District of Columbia. The defendant Weigand also explained the manner in which the defendant Wolfe and Mr. Meisner could be traced to the Church of Scientology, as well as the story to be given to law enforcement investigators. See Government Exhibit No. 116. A copy of that report was sent to the "CS-G", defendant Mary Sue Hubbard. That report was written in code. It was seized by Federal Bureau of Investigation Special Agent Harold R. Brunson from the area immediately outside the office of the defendant Raymond at the Cedars Complex. It was inventoried and initialed by Special Agent Michael Ray Napier. Government Exhibit No. 188 (Code ISIS) was seized by Special Agent Eusebio Benavidez from a file cabinet in the defendant Willardson's office at the Cedars Complex. Code ISIS had an attached cover letter from Mr. Mo Budlong to the then Deputy Guardian for Information, the defendant Duke Snider, in which Mr. Budlong directed that Code ISIS was to be used only for dispatches between the United States Guardian's Office and the World-Wide Guardian's Office. Mr. Meisner identifies the handwriting at the top of that page as that of the defendant Snider, and the signature and handwriting at the bottom of the page as that of Mr. Budlong. Special Agent Arthur R. Eberhardt, a cryptanalysis expert with the Federal Bureau of Investigation in Washington, D.C., has examined Government Exhibit No. 116 and Code ISIS (Government Exhibit No. 188). He concludes that the coded text within Government Exhibit No. 116 uses two different methods of a substitution code - "digital" and "word or phrase." The  
(footnote continued on next page.)

On Sunday, June 13, 1976, the defendant Willardson met Mr. Meisner at his motel room and drove him to the defendant Weigand's office, where all three met to finalize the outline of the plan, which they had discussed the day before, in order to present it to the defendants Heldt and Snider. Soon thereafter, the defendant Weigand and Mr. Meisner met with the defendants Heldt and Snider in the defendant Heldt's sixth floor offices at the Fifield Manor. The defendants Heldt and

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(footnote continued from preceding page.)

"digital" code substitutes the digits 10 through 99 for the various letters of the alphabet. The "word and phrase" code substitutes a word or phrase for a plaintext word or phrase. He also finds that Code ISIS (Government Exhibit No. 188) is the code which was used to encode Government Exhibit No. 116. Thus, using Code ISIS he decoded that Government Exhibit No. 116 by placing the decoded letters and words above the coded ones. See Government Exhibit No. 212.

On June 21, 1976 the defendant Weigand sent the same report to CS-G Assistant for Information Jimmy Mulligan. See Government Exhibit No. 115 which was seized by Special Agent James R. Kramarsic from a file cabinet located in a closet in the defendant Heldt's inner office at the Fifield Manor. Handwriting expert James Miller concludes that it is "probable" that the defendant Heldt wrote his initial next to his title in the routing portion of the cover letter, and that it is "probable" that the defendant Weigand wrote the signature "Dick" on that letter. Mr. Meisner recognizes both the initial and the signature as those of the defendants Heldt and Weigand, respectively.



Snider each indicated that they had already read Mr. Meisner's report (Government Exhibit No. 114) and were fully conversant with the matters discussed in it. All present concluded that the FBI could readily trace already existing leads back to the Church of Scientology. With this in mind, the defendants Heldt and Snider suggested an alternative plan which they had formulated on their own earlier that day. That plan called for the defendant Wolfe and Mr. Meisner to be withdrawn from the District of Columbia and sent out of the United States. The defendant Heldt stated that as long as there were no bodies, the FBI would have nothing to investigate. The defendant Weigand, however, countered that if no bodies were found then the FBI would look even more deeply and find the connection between the defendant Wolfe and Mr. Meisner and the Church of Scientology organization. The defendant Weigand explained that Mr. Meisner had given the FBI an address close to his real residence where, by canvas, the FBI might find someone who could identify him by the photograph on his counterfeit IRS credentials. It was also pointed out

that the FBI not only had Mr. Meisner's and the defendant Wolfe's handwriting on the Courthouse and library logs, but also Mr. Meisner's fingerprints on his false IRS identification card. Thus, the defendant Weigand suggested that if the defendant Wolfe allowed himself to be arrested and gave the proper cover story, then the investigation could be contained. Then, following the defendant Wolfe's plea of guilty, Mr. Meisner would surrender, give the same cover story as the defendant Wolfe, and enter a guilty plea. This, he posited, would terminate the investigation with little or no connection to Scientology. The defendant Heldt directed the defendant Weigand and Mr. Meisner to discuss both plans, and detail one of them and present it to him for his final approval.

The defendant Weigand and Mr. Meisner returned to the defendant Weigand's office where the defendant Willardson joined them to implement the defendant Heldt's orders. During that meeting, the defendant Hermann/Cooper informed them that the defendant Wolfe had left the District of Columbia and was to arrive in Los Angeles later that evening. The defendant Hermann then joined the meeting for a short period



of time. The three men drafted defendant Weigand's ideas in proposal form. The defendant Weigand himself actually wrote out the proposal for the defendant Heldt's approval, typed it, and took it to the defendant Heldt. Some fifteen minutes later, the defendant Weigand returned to his office and stated to the defendant Willardson and Mr. Meisner that the defendant Heldt had approved that plan. They decided to meet again the next morning to prepare the cover story with the defendant Wolfe. The defendant Weigand directed Mr. Meisner to change his appearance with the assistance of Weigand's secretary, Janet Finn. The defendant Willardson and Mr. Meisner then had dinner, after which Mr. Meisner was returned to the Holiday Inn motel.

On Monday, June 14, the defendant Weigand's communicator (secretary), Janet Finn, met Mr. Meisner at approximately 9:00 a.m. at his motel room. She cut his hair, then dyed it red. Mr. Meisner then shaved his mustache. Establishment Officer (Esto Off) Peeter Alvet met Mr. Meisner and gave him approximately \$200 to obtain contact lenses. Mr. Meisner

then went to an optometrist on Hollywood Boulevard where he purchased soft contact lenses. 132/

At approximately 1:00 p.m. the defendants Weigand, Willardson and Wolfe arrived at the Holiday Inn to create the cover story to be given by Wolfe to the FBI. The defendant Weigand informed Mr. Meisner that the defendant Hermann/Cooper was on a plane on his way to the District of Columbia where he was to assume temporarily the position of Assistant Guardian for Information until Richard Kimmel could be brought back from England where he had been undergoing training at World-Wide for that position. 133/

During the next hour the following cover story was prepared: The defendant Wolfe and Mr. Meisner were to have met in February 1976 in a District of Columbia bar, which was to be selected later, and struck up a friendship. Mr.

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132/ Dr. Gerald Nankin, an optometrist with offices on Hollywood Boulevard in Los Angeles, California, sold a pair of contact lenses to Mr. Meisner on June 14, 1976.

133/ Mr. Kimmel had been selected to replace Mr. Meisner, who during his meetings in Los Angeles in February 1976, had been slated to become National Secretary for the United States.



Meisner was to have introduced himself as "John Foster". Mr. Mr. Meisner was to have told the defendant Wolfe that he was a law student attending Georgetown University School of Law. The defendant Wolfe was to have informed Mr. Meisner that he worked at the IRS. The two individuals were to have met on a number of occasions. Then in mid-March 1976, after having drunk heavily at a few different bars, Mr. Meisner was to have mentioned that he had never been to the IRS, and Wolfe was to have offered to take him on a tour of that building. The defendant Wolfe was to have taken Mr. Meisner to the IRS, signed him in, and taken him on a tour of the first floor. Inadvertently, according to the story, they stumbled upon the identification room which had an open door. They went in and as a lark decided to make identification cards for themselves. The defendant Wolfe was to have made Mr. Meisner an identification card and typed in the name "John Foster" upon it. Mr. Meisner was then to have made an identification card for the defendant Wolfe who had decided to use the name "Thomas Blake". On a subsequent occasion, the defendant Wolfe

and Mr. Meisner were to have met at a bar and after a few drinks the defendant Wolfe asked Mr. Meisner to teach him how to do legal research so that he might be able to obtain a better job. Mr. Meisner agreed to do so if Wolfe would, as a return favor, look up some information for him at the IRS for a paper which Mr. Meisner was writing on section 501 (c)(6) of the IRS Code (the section dealing with exempt organizations). They decided that the District of Columbia Bar Association Library in the United States Courthouse in the District of Columbia was the most convenient for them. Thus, on May 21, 28 and June 11, they went to the Courthouse to use the D.C. Bar Association Library where Mr. Meisner taught the defendant Wolfe legal research. While there, they were directed by the cleaning personnel to the photocopying machines within the United States Attorney's Office. Specifically, they used those machines to photocopy cases in law books and their own notes from those books. However, they had no idea that they were within the United States Attorney's Office. After the confrontation with the FBI agents, the defendant Wolfe and



Mr. Meisner were so upset that they forgot to set up a further meeting. Since the defendant Wolfe did not know where Mr. Meisner lived, he could not contact Mr. Meisner again, and, therefore, could not give the FBI his location.

After the defendants Weigand, Willardson, Wolfe and Mr. Meisner had outlined the cover story, the defendant Weigand instructed them to write out "mission orders" for the defendant Hermann in the District of Columbia, write out the cover story, and drill the defendant Wolfe on it. The defendant Weigand then left the Holiday Inn Motel.

The defendant Wolfe called his office at the IRS in Washington, D.C., to determine through a friend whether anyone, such as the FBI, had made any inquiries regarding him. In the process, he requested his friend to notify his supervisor that he would not be at work the next day. <sup>134/</sup> After that phone call, the three individuals prepared written "mission

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<sup>134/</sup> Mr. Keith Shelton, Chief of the National Office Branch of the IRS and custodian of the time and attendance records, states that the defendant Wolfe used eight hours of sick leave on June 14, 1976, and six hours of sick leave and two hours of annual leave on June 15, 1976.

orders" for the defendant Hermann/Cooper. Those orders required Hermann/Cooper to: (1) keep in constant contact with the defendant Wolfe; (2) locate an attorney for the defendant Wolfe so that he could test the plausibility of the concocted story on someone other than the FBI; and (3) supervise the defendant Wolfe pending his arrest. They then wrote out the cover story, gave a copy to the defendant Wolfe and drilled him on that story.

At approximately 7:00 p.m. Mr. Meisner checked out of his motel room, and, together with the defendant Willardson, drove the defendant Wolfe to the airport where Wolfe took a night flight to Baltimore-Washington International Airport. Mr. Meisner stayed that night at the defendant Willardson's home on Roxbury Drive in Beverly Hills.

On June 15, 1976, in Washington, D.C., the defendants Hermann/Cooper and Wolfe met, discussed the cover plan, story and the attorney who was to be selected for Wolfe. The defendant Wolfe then met with his attorney and presented him with the cover story which had been prepared the previous day.



In Los Angeles, Mr. Meisner, who began to use the alias "Jeff Murphy", moved to the defendant Weigand's house on Westmoreland Street, near Wilshire Boulevard, where he stayed for the remainder of the summer. The defendant Weigand directed Mr. Meisner to prepare a complete report on his activities as Assistant Guardian for Information in the District of Columbia and on all pending activities there as required by Guardian's Office procedures when an official leaves a post. For the next few days, Mr. Meisner, working in the defendant Weigand's office, prepared the report as directed. On June 18, 1976, that completed report was typed by Mr. Meisner and presented to the defendant Weigand. (Government Exhibit No. 108.) 135/ In his report, Mr.

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135/ Government Exhibit No. 108 was seized by Special Agent Gary Aldrich from the office of the defendant Willardson at the Cedars Complex. Handwriting expert James Miller positively identifies the notation "G. I'll read it later. L.D." located on the front page of that report as the handwriting of the defendant Weigand. Mr. Meisner also identifies the initials "GW" in the upper portion of the front page as having been made by the defendant Willardson.

Meisner explained how he had burglarized government offices, including the manner in which he had forcibly opened doors, and supervised covert operatives. He identified the current covert operatives who were still operating and itemized what remained for them to accomplish. He also described his duties as Assistant Guardian for Information. Within a few days thereafter, the defendant Willardson issued "mission orders" to Mr. Meisner which had been approved by the defendants Weigand and Heldt. These orders directed Mr. Meisner to go to Dallas, Texas, to attend the American Medical Association Convention, and then to New York to resolve a local Guardian's Office matter. Upon his return to Los Angeles, on July 7, Mr. Meisner was appointed National Secretary for the United States by Guardian World-Wide Jane Kember.

B. The Defendant Gerald Bennett Wolfe  
is Arrested in Washington D.C. by  
the Federal Bureau of Investigation

On June 30, the defendant Wolfe was arrested in the main IRS building by FBI Special Agent Christine Hansen. He was charged with the use and possession of a forged official pass of the United States, in violation of 18 U.S. Code, Section 499,



and arraigned before United States Magistrate Henry H. Kennedy, Jr. (U.S. Mag. No. 76-930 M (Cr)). On that same day, Assistant Guardian for Information in the District of Columbia Richard "Rick" Kimmel notified the defendant Hermann/Cooper of the defendant Wolfe's arrest. The defendant Hermann/Cooper then informed the defendant Weigand that at 2:30 p.m. Wolfe had been arrested by the FBI, that he had been arraigned, and released on his own recognizance pending a preliminary hearing. As a condition of his release, the defendant Wolfe was to submit handwriting exemplars to the FBI. (Government Exhibit No. 117.) <sup>136/</sup> The defendant Hermann/Cooper told the defendant Weigand that all covert activities in the District of Columbia had been ordered "shut down", that "sensitive material" had been moved to another office, and that "Kelly" (another covert name for the defendant Wolfe) "has been briefed to carry out his part". He also told the defendant Weigand that all data on "Jeff" (Mr. Meisner's alias at the time) had

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<sup>136/</sup> Government Exhibit No. 117 was seized by Special Agent Brunson from the area immediately outside the main office of the defendant Raymond at the Cedars Complex. It was inventoried and initialed by Special Agent Napier.

been taken out of the organization. 137/ On July 1, the defendant Weigand wrote a letter to Deputy Guardian for Information World-Wide Mo Budlong informing him of the arrest of the defendant Wolfe and the information brought to his attention the previous day by the defendant Hermann/Cooper. (Government Exhibit No. 118.) 138/

In a letter dated July 1, 1976, and entitled "Re: Mike and the FSM", the defendant Mary Sue Hubbard stated to the

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137/ Located above some of the more incriminating words on Government Exhibit No. 117 are the coded words which were to be substituted later. These words are identical to those in code ISIS (Government Exhibit No. 188). Mr Meisner recognizes the initials next to the title "DG Info US" as having been written by the defendant Weigand, and the signature on that document as that of the defendant Hermann/Cooper.

138/ Government Exhibit No. 118 is also in code. Special Agent Eberhardt of the Cryptanalysis Section of the FBI Laboratory, decoded that document using code ISIS (Government Exhibit No. 188). See Government Exhibit No. 216 -- the decoded version of the instant document. That document was seized by Special Agent Brunson from the area outside the defendant Raymond's office at the Cedars Complex. Handwriting expert James Miller concludes that it is "probable" that the defendant Weigand signed this letter. Moreover, Mr. Meisner identifies that signature as having been written by the defendant Weigand. The initials "DW:jf" are those of the defendant Weigand and his secretary Janet Finn.



defendant Weigand that "[f]rom an investigative point of view it was really too easy for the opposition. All they had to do was to trace the common enrtty [sic] points of the log back for both Mike and the FSM [Wolfe] until they arrived at the point where the FSM used his correct ID card." She urged the defendant Weigand to keep her informed of what has happened to the FSM, the defendant Wolfe. (Government Exhibit No. 119 at p. 2.) Handwriting expert James Miller is "positive" that the signature on that document was written by the defendant Mary Sue Hubbard. 139/ The defendant Weigand responded to the defendant Hubbard's inquiry in two separate letters, both dated July 2, 1976. He informed her that the defendant Wolfe (Silver) was about to submit his resignation to the IRS to avoid being suspended. He also wrote that the prosecutor in the case had been told that Wolfe had obtained his identification card as part of "[a] lark gone sour". He added that an additional \$800 would be needed to "cover the balance of the retainer" of Wolfe's attorney. (Government Exhibit No. 119 at

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139/ Government Exhibit No. 119 was seized by Special Agent Brunson from the area outside the defendant Raymond's office at the Cedars Complex.

p. 3-4.) He also stated that the defendant Wolfe was "instructed . . . [to] go nowhere near the org [Church of Scientology] and . . . have no personal contact with the case officer [Kimmel] either." He concluded that it was still possible that the defendant Wolfe would be "given minimal punishment" and that the matter would terminate without any connection to the Church of Scientology. (Government Exhibit No. 119 at p. 1.) 140/ In the other letter of 2 July 1976 regarding "Silver", the defendant Weigand updated for Mr. Budlong the information regarding the defendant Wolfe's arrest. (Government Exhibit No. 120.) That coded letter was decoded by a cryptanalyst, Special Agent Arthur Eberhardt. (Government Exhibit No. 213.) In the letter, the defendant Weigand reiterated the information which he had given on

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140/ Handwriting expert James Miller concludes that it is "probable" that the defendant Weigand wrote the signature "Dick" on pages one and four of the document, and that the initial next to the title "DG US" on the first letter was written by the defendant Heldt. Mr. Meisner recognizes both signatures as having been written by the defendant Weigand, and the initial in question as having been written by the defendant Heldt.



that same date to the defendant Hubbard. <sup>141/</sup> On July 2, 1976, the defendant Hermann/Cooper inquired of the defendant Weigand whether the defendant Hubbard in her letter of July 1, 1976 "is looking toward Silver [Wolfe] denying the use of the false ID card and then it not being able to be proven that he had actually used one." (Government Exhibit No. 121.) <sup>142/</sup> The defendant Hermann/Cooper recommended that "we go ahead with the worked out cover story".

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<sup>141/</sup> See Government Exhibit No. 119 at pp. 1, 3-4. A copy of Government Exhibit No. 120 was sent to CSG Assistant for Information Jimmy Mulligan who, on July 6, 1976, requested the defendant Weigand to provide him with translations of the code. The defendant Weigand responded in a letter dated July 13, 1976. See Government Exhibit No. 122. Government Exhibits Nos. 119, 120, and 122 were seized by Special Agent Brunson from the area outside the defendant Raymond's office at the Cedars Complex. Mr. Meisner identifies the signature "Jimmy" on the 6 July letter as having been written by Mr. Mulligan.

<sup>142/</sup> Government Exhibit No. 121 was seized by Special Agent Brunson from the office of the defendant Raymond at the Cedars Complex. Mr. Meisner identifies the signature on the July 2 letter as having been written by the defendant Hermann/Cooper.

C. The United States Case Against  
the Defendant Gerald Bennett  
Wolfe is Referred to the Grand  
Jury, and an Arrest Warrant is  
Issued for Michael Meisner.

On July 28, 1976, the defendant Wolfe appeared with his attorney, Lawrence Speiser, Esquire, before United States Magistrate Henry H. Kennedy, Jr. for a preliminary hearing. Following that hearing, United States Magistrate Kennedy found that probable cause existed, and ordered the case "bound over for the action of the Grand Jury". A few days later, on August 5, 1976, Magistrate Kennedy issued a sealed warrant for the arrest of Michael Meisner for the use of a forged official pass of the United States, in violation of 18 U.S. Code, Section 499. (U.S. Mag. No. 1101-76M(Cr)). In mid-August, CSG Assistant for Information Jimmy Mulligan informed Mr. Meisner that the defendant Thomas had overheard a conversation in Mr. Paul Figley's office at the Department of Justice in which it was stated that a sealed arrest warrant had been issued in the District of Columbia. On August 30, FBI Special Agents Joseph Jackson and John Pavlansky went



to the offices of the Church of Scientology at 2125 S Street, N.W., in Washington, D.C., to attempt to locate Mr. Meisner. They were met there by Assistant Guardian for Legal Bureau Kendrick "Rick" Moxon. They explained to Mr. Moxon that they were acting on behalf of the Office of the United States Attorney for the District of Columbia and were attempting to locate Mr. Meisner because an arrest warrant had been issued for him on August 5, 1976, charging him with forgery of United States Government identification cards. They told Mr. Moxon that they wanted to inform him and all others concerned of Mr. Meisner's status so that they could notify him and help him "avoid putting himself in a fugitive status". They warned Mr. Moxon that anyone who aided Mr. Meisner in remaining a fugitive "would be guilty of a criminal act under the harboring of criminals statute." Mr. Moxon informed the agents that he did not know where Mr. Meisner was. Mr. Moxon immediately notified his superior, Mary Rezzonico, the Deputy Guardian for the Legal Bureau in the United States, and appended to that letter the harboring of fugitives statute, emphasizing that it provided for a penalty of "5 year sentence

and \$2,000 maximum fine." (Government Exhibit No. 123.) <sup>143/</sup>

D. The Guardian's Office Harbors  
and Conceals Fugitive From  
Justice Michael Meisner

On August 30, 1976, the same day that he received notification that an arrest warrant had been issued for Mr. Meisner, the defendant Weigand notified the defendant Mary Sue Hubbard that he has "just received word that Mike [Meisner] had a warrant out for his arrest." He added that "[t]he plan at this time is to hide Mike out. It appears that the safest place to do this is in Europe somewhere." (Government Exhibit No. 124.) <sup>144/</sup> The defendant Weigand added:

My actions are as follows:

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<sup>143/</sup> Government Exhibit No. 123 was seized by Special Agent Brunson from a file cabinet in Room 10 at the Cedars Complex. Mr. Meisner identifies the signature on that exhibit as that of Mr. Moxon with whom he had worked closely for two years. He also recognizes the initials of the defendant Weigand in the routing portion of the letter.

<sup>144/</sup> Government Exhibit No. 124 was seized by Special Agent Brunson from a file cabinet in Room 10 in the Information Bureau at the Cedars Complex.



1. Immediately remove M [Meisner] from all GO connected spaces and get him into a motel.
2. Further alter his appearance.
3. Get with legal for legal opinion to include what the statue [sic] of limitations is on this offence.
4. Work out how to obtain M the necessary papers to get him out of the country.
5. Obtain the papers.
6. Get him out of the country.

The defendant Mary Sue Hubbard responded to the defendant Weigand's letter as follows:

Wonder how they got a lead onto him?

On getting him abroad, unless you have good ID for him different than his own, it might be dangerous. He would better be "lost" in some large city where it would be difficult [sic] to find him.

What a shame. (Emphasis added.)

(Government Exhibit No. 124 at p. 2.) On September 2, the defendant Weigand responded to the defendant Hubbard's inquiry

that he did not know how the FBI had connected "John M. Foster" to Michael Meisner. He suggested, however, that they might have been able to locate his former apartment house and have his photograph identified by a tenant. <sup>145/</sup> On the evening of August 30, the defendant Weigand contacted Mr. Meisner and requested him to come to his office, which had since been moved to a warehouse in Glendale, California. In the presence of the defendant Hermann and Assistant Guardian for Information in Clearwater, Florida, Joe Lisa, he informed Mr. Meisner of the outstanding warrant for his arrest, and instructed him to sever all outward connections to the Guardian's Office. He told him that the defendant Hermann would assist him in moving out of the Weigand residence into a motel. He also removed him from the position of National

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<sup>145/</sup> Handwriting expert James Miller concludes that it is "probable" that the signature "Dick" was written by the defendant Weigand, and that the initials next to the title "DG US" on the August 30 and September 2 letters were written by the defendant Heldt. Mr. Meisner recognizes the signature of the defendant Weigand and the initial of the defendant Heldt.



Secretary for the United States. Mr. Meisner was given funds for the motel. With the defendant Hermann's assistance, Mr. Meisner moved to the Regalodge on 200 West Colorado Boulevard, in Glendale, where he registered as "Jeff Burns". On September 1, Mr. Meisner moved to the Bon Air Motel at 1727 North Western Avenue in Los Angeles, where he stayed until September 8. He registered there as "Jeff Marks." During that time, the defendant Hermann/Cooper ordered Mr. Meisner to change his appearance. (Government Exhibit No. 125.) 146/

In a letter dated 3 September 1976 the defendant Weigand notified the defendant Hermann/Cooper that the defendant Heidt had issued new orders relating to "Jeff Murphy" - Mr. Meisner's alias at the time. (Government Exhibit No. 126.) 147/

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146/ Government Exhibit No. 125 was seized by Special Agent Brunson from a file cabinet outside the office of the defendant Raymond in Room 15 at the Cedars Complex. Mr. Meisner was ordered to change his appearance so as to create "the image of an aging guy wanting to look hip as a means of regaining his youth a bit," to wear a "mod wardrobe," to shave his head, to wear contact lenses, to have a tooth capped, to lose or gain some weight, and to wear earth shoes to change his posture.

147/ Government Exhibit No. 126 was seized by Special Agent Brunson from a file cabinet outside the defendant Raymond's office at the Cedars Complex.

The defendant Weigand suggested that Los Angeles was a better place to hide Mr. Meisner since it was "a huge city and he can get lost here very successfully," while still being close to the Guardian's Office. He directed the defendant Hermann/Cooper to give this matter "top priority and lets [sic] get it done." 148/

On September 10, 1976, Mr. Meisner moved to the Westgate Hotel located at 445 South Western Avenue in Los Angeles. At midnight, as a result of new developments in the District of Columbia, Mr. Meisner was moved by the defendants Willardson and Hermann/Cooper to the Wilshire Dunes Motel at 4300 Wilshire Boulevard, also in Los Angeles. He registered at both locations as "Jeff Marks", and stayed at the latter until September 12. Mr. Meisner was then moved by the defendant Hermann-Cooper to the Travelodge at 7370 Sunset Boulevard for one night. On September 13 and 14, he stayed at the Sunset 8 Motel at 6516 Sunset Boulevard. Then, on September 15, he

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148/ Mr. Meisner identifies the handwritten notations on the lower-half of this letter as having been written by the defendant Hermann/Cooper.



registered at the Burbank Hotel located in Burbank, California, where he remained until early October. Mr. Meisner paid for all of these hotels with Guardian's Office funds supplied to him by the defendant Hermann/Cooper who was his immediate contact.

In a September 18, 1976 letter, the defendant Mary Sue Hubbard informed the defendant Weigand that she had "at last gotten a copy of the warrant" for the arrest of Mr. Meisner. She concluded that there was "the need to establish an alibi for MM". The defendant Weigand responded to the defendant Hubbard's letter on 22 September 1976 in which he expressed his belief that her plan would "encounter difficulties" in view of the fact that the FBI had the defendant Wolfe's and Mr. Meisner's handwriting on the log books of the Courthouse. He stated his opinion that establishing an alibi as she had suggested, would "come down to our word(s) against 2 FBI agents, cleaners and guards, plus handwriting experts, ear experts and possibly fingerprint experts."

He concluded that there were two options open:

1. Turn Mike in at the most opportune time

(when we can get some better prediction of what will be done with him and us, which as you wrote should follow the handling of Silver.)

2. Not turn him over. Which means he hides or runs for 5 years at least (that being the statute of limitations.) 149/

"The worst," he stated "from my viewpoint is that M would get 5 years in jail and a \$2000 fine that being the maximum for the action. Also, there would be attempts to get him to turn or otherwise implicate us or others in various wrong doings." He added that "[i]f the investigation continues I expect that more data will be turned up linking us with M's and others [sic] actions." He asked the defendant Hubbard to send him her views. (Government Exhibit No. 127.) 150/

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149/ The defendant Weigand's perception in this regard was, of course, erroneous.

150/ Government Exhibit No. 127 was seized by Special Agent Brunson from a file cabinet outside the defendant Raymond's office at the Cedars Complex. Mr. Meisner identifies the initials next to the words "Info" and "Return" as having been written by the defendant Heldt.



The defendant Hermann/Cooper and Mr. Meisner met for some two hours on September 20, 1976. Mr Meisner told the defendant Hermann/Cooper that he was absolutely opposed to leaving the country. (See also Government Exhibit No. 128.) 151/ The defendant Hermann/Cooper advised Mr. Meisner that, pursuant to a Guardian's Office directive, a San Diego police lieutenant had made an inquiry through the National Crime Information Center (NCIC) computer to determine the specifics regarding the arrest warrant which had been issued for Mr. Meisner on August 5. The defendant Hermann/Cooper stated that the NCIC check revealed that the Meisner warrant was for the forgery of government identification cards. He told Mr. Meisner that the FBI had contacted the police lieutenant to find out why he had made that inquiry.

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151/ Government Exhibit No. 128 was seized by Special Agent Brunson from a file cabinet located outside the defendant Raymond's office at the Cedars Complex. Mr. Meisner identifies the handwriting around the caption of the September 21, 1976 letter, from the defendant Hermann/Cooper to the defendant Weigand, as that of the defendant Hermann-Cooper.

San Diego police lieutenant Warren Young, a member of the Church of Scientology, told the FBI that he had made the NCIC check because he had arrested Mr. Meisner for a pedestrian violation the previous day in San Diego. In fact, Mr. Meisner had never been to San Diego. In a handwritten letter dated 16 September 1976, the defendant Duke Snider stated to the defendant Weigand that "[i]t looks as though AG SD [Assistant Guardian for San Diego] has set C of S [Church of Scientology] up to be accused of conspiring with this policeman to violate the law." He directed the defendant Weigand to take the necessary steps to handle the matter. (Government Exhibit No. 129A.) On the same day, the defendant Weigand responded to the defendant Snider that, while he did not know whether the policeman was "cool", he knew that the police officer was a lieutenant who "is on SCN [Scientology] lines". He observed that they "have laid a nice false lead for the FBI which cant [sic] help but help us while dispersing their investigation. This according to reliable sources is one thing that can draw an investigation to a quik [sic] close." (Government Exhibit No.



129B.) The defendant Snider, in a handwritten notation, thanked the defendant Weigand and stated that he was "glad to see it is under control". <sup>152/</sup>

On September 28, 1976, Deputy Guardian for Information World-Wide Mo Budlong, in a letter to the defendant Weigand "Re: Murphy [Meisner]", stated:

The answer for this gentleman is to have him depart for some whereabouts wherein he can obtain documents concerning his ability

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<sup>152/</sup> See also Government Exhibit No. 129. Handwriting expert James Miller is "positive" that all of the handwriting on the Snider letter marked Government Exhibit No. 129A is in the handwriting of the defendant Snider. He is "positive" that the handwritten notation signed "Duke" on Government Exhibit No. 129B is in defendant Snider's handwriting. He also concludes that the handwritten notation signed "Love Cindy", as well as the initials and date next to the "natl sec" entry on Government Exhibit No. 129, are positively in the handwriting of the defendant Raymond. Government Exhibit No. 129 was also seized by Special Agent Brunson from a file cabinet outside the defendant Raymond's office at the Cedars Complex.

In fact, Special Agent Christine Hansen requested the FBI Field Office in San Diego, California, to question police lieutenant Warren Young, and follow the lead, given by him, that Mr. Meisner was in that city. This false lead diverted the resources of the FBI in the instant investigation to yet another city.

to drive but does not have to give details of his life history, if you know what I mean, to obtain the documents.

Then he should find some out of the way large city where he can rent himself a quiet place to do research or some such for an article or a book or whatever.

He can then live and work there for some time undisturbed.

Once Silver has completed his cycle we will have some idea of which way things are moving and we will be able to ascertain Murphy's next move, but for the time being he should keep himself fairly exclusive.

Silver should admit what he did but let his representative do his talking for him and should not volunteer any further information.

To achieve this of course Silver and his representative will have to push for the big event to occur as soon as possible.

Once the Silver event is over we can reassess the whole cycle in light of the data that comes up, which you will have to work out some way of reporting to me.

If any of the above is not clear,  
please ask immediately as I don't want  
any confusions on what has to be done.  
(Emphasis added.)



(See Government Exhibit No. 131.) 153/

E. The Guardian's Office Gives  
the FBI and the Grand Jury  
False Handwriting Exemplars.

In late September 1976, FBI Special Agent Hansen requested the Church of Scientology in Washington, D.C., to supply the government investigators with exemplars of Mr. Meisner's handwriting. In Los Angeles, California, the defendant Raymond met with Mr. Meisner to discuss what should be given to the FBI. She informed Mr. Meisner that it had been decided to give false exemplars to the FBI. In a letter dated September 30, 1976, to the defendant Weigand, the defendant Mary Sue Hubbard stated that she was aware that the FBI had requested Meisner handwriting exemplars and that those would be compared to the log books of the buildings which Mr. Meisner had entered. She, thus, requested the defend-

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153/ Government Exhibit No. 131 was seized by Special Agent Henry L. Williams from the desk of the defendant Cindy Raymond at the Cedars Complex. It was inventoried and initialed by Special Agent Raymond Mislock.

ant Weigand to furnish her with a list of all the buildings which Mr. Meisner had illegally entered. The defendant Hubbard stated in that letter that she was, as of that date, fully aware of the existence of an arrest warrant for Mr. Meisner. (Government Exhibit No. 132.) 154/

In order to respond to the defendant Hubbard's inquiry the defendant Raymond met with Mr. Meisner to obtain from him a list of all the buildings he had illegally entered in the District of Columbia and the details of those entries. She then relayed that information to the defendant Weigand who responded to the defendant Hubbard's request in a late October 1976 letter. (Government Exhibit No. 132 at page 1.) In that letter, the defendant Weigand informed the defendant Hubbard that the buildings illegally entered by Mr. Meisner included the Department of Justice, the Internal Revenue Service, the Office of International Operations, as

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154/ Government Exhibit No. 132 was seized by Special Agent Raymond Mislock from a file cabinet located in Room 30 of the Information Bureau at the Cedars Complex.



well as a number of other private and Government buildings. 155/ The defendant Weigand pointed out to the defendant Hubbard that he was in the process of "working out a full cover that would cover the log book sign-ins along the lines of they were done to reveal the insecurity within the government for a series of articles that M [Meisner] would be writing as exposes." 156/

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155/ The other buildings listed in that letter include the Post Office, the Labor Department's National Office, the Federal Trade Commission, the Department of the Treasury, the U.S. Customs Building, the Drug Enforcement Administration, the American Medical Association's law firm offices in Washington, D.C., and the offices of the law firm representing the St. Petersburg Times, also in Washington, D.C. Handwriting expert James Miller concludes that it is "highly probable" that the signature "Dick" at the end of the October 8 letter was written by the defendant Weigand. Mr. Meisner, himself, recognizes that signature as in the handwriting of defendant Weigand, and explains that the initials "DW/jf" to the left of the signature are those of the defendant Weigand and his communicator (secretary) Janet Finn.

156/ For another series of letters to the defendant Mary Sue Hubbard discussing the District of Columbia incident and the Wolfe/Meisner situation, see Government Exhibit No. 130, which includes a "CSW" from Mr. Meisner to the defendant Hubbard as well as memoranda from the defendant Hermann/Cooper to the defendant Hubbard. Mr. Meisner states that the defendant Hermann/Cooper's handwriting appear in the following locations: the word "secret" at the top of page one, and the signature on the last page. Government Exhibit No. 130 was seized by Special Agent Brunson from a file cabinet outside the defendant Raymond's offices.

On October 8, 1976, FBI Special Agent Hansen served upon Assistant Guardian for the Legal Bureau in Washington, D.C. Kendrick "Rick" Moxon a Grand Jury subpoena for all original known handwriting exemplars of Michael Meisner and the employment application and personnel records of Mr. Meisner in the possession of the Church of Scientology. That subpoena was returnable on October 14, 1976. Assistant Guardian for Information in the District of Columbia Richard Kimmel immediately notified the defendant Hermann/Cooper of the service of that subpoena. The defendant Hermann/Cooper then notified the defendants Heldt and Weigand in an October 9, 1976 memorandum. (Government Exhibits Nos. 133 and 134 at p. 1.) 157/ In that same memorandum, the defendant Hermann/Cooper requested approval from the defendants Heldt and Weigand for a mission by Randy Windment, the real name of Bruce Raymond, the National Operations Officer for the Information

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157/ Government Exhibits Nos. 133 and 134 were seized by Special Agent Brunson from a file cabinet in room 10 at the Cedars Complex.



Bureau in the United States. Mr. Windment/Raymond was to go to the District of Columbia to check the security of the Guardian's Office and the covert operatives who were still functioning--namely the defendant Sharon Thomas (also known as "Judy") and Ms. Nancy Douglass (also known as "Pitts"). Both the defendants Weigand and Heldt signed their approval of that mission. (See Government Exhibit No. 134.) 158/

On October 14, 1976, District of Columbia Assistant Guardian for the Legal Bureau Kendrick "Rick" Moxon, submitted

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158/ Handwriting expert James Miller concludes that it is "probable" that the handwritten initials next to the words "mission approved" on page one of Government Exhibit No. 134 were written by the defendants Heldt and Weigand. Similarly, Mr. Miller finds it "probable" that the initials and date next to the title "DG Info US" on page one are in the handwriting of the defendant Weigand, and the initial next to item 2 (vital targets) on page two is probably in the handwriting of the defendant Heldt. Mr. Meisner identifies those initials as in the handwriting of the defendants Weigand and Heldt respectively, as he does all of the handwriting on page three as that of the defendant Hermann/Cooper. Mr. Meisner also identifies the signature "Mike" at page one of Government Exhibit No. 134 and the handwriting on pages three and five of Government Exhibit No. 133 as that of the defendant Hermann/Cooper.

an affidavit with nine pages of handwritten material. In the affidavit, he stated that he was unable to locate a personnel file for Mr. Meisner, and that the nine pages of appended handwriting were those of Mr. Meisner. However, as the defendant Raymond stated to Mr. Meisner in a meeting in late September 1976, Mr. Moxon had been directed to supply the government with fake handwriting samples in lieu of Mr. Meisner's true handwriting exemplars.

F. The Guardian's Office  
Refines its Cover-Up Plans

In early October 1976, the defendant Raymond decided that it would be best for Mr. Meisner to move from his motel to an apartment, thereby reducing the expenses of the Guardian's Office. Paul Poulon, the Collections Officer for the Information Bureau, rented an apartment for Mr. Meisner at 444 South Burlington Street in Los Angeles, California, to which Mr. Meisner moved on October 6. Mr. Meisner, at that time, was spending most of his days at local libraries doing research



on the security of government buildings, in order to support one of the cover-up stories, viz., that he had entered various government buildings to do an expose on the lack of security. The defendant Raymond and Mr. Meisner met approximately twice a week to discuss the ongoing cover-up. Mr. Meisner requested of the defendant Raymond that she set up a meeting between him and the defendant Snider as soon as possible. Mr. Meisner had been anxious to communicate his views regarding the cover-up in the current District of Columbia situation with someone in a position of higher authority. He thus selected the defendant Snider because of his high position in the Guardian's office as well as the fact that he had known him for a long time. Indeed, the defendant Snider had recruited Mr. Meisner for the Information Bureau of the Guardian's office. On October 28, the defendant Snider and Establishment Officer Peeter Alvet met with Mr. Meisner at the Burlington Street apartment. Mr. Meisner told the defendant Snider that he was concerned about the length of time that the cover-up operation was taking. The defendant Snider

cautioned Mr. Meisner that "we didn't want him doing something too fast as we wanted to see what happened with Silver [Wolfe] first, the threat of a Grand Jury." Government Exhibit No. 137, is a letter dated 4 November 1976 in which the defendant Snider wrote the defendant Heldt of the outcome of his meeting with Mr. Meisner. 159/ In it, the defendant Snider stated that Mr. Meisner "seemed to finally realize . . . that his actions would ultimately seriously effect [sic] the church. . . ." Mr. Meisner had expressed concern for his wife and his parents as well as for the fact that he was being kept almost totally uninformed of Guardian's Office actions on the ongoing cover-up. The defendant Snider assured Mr. Meisner that he would be briefed on all decisions taken by the Guardian's Office and that his views would henceforth be considered. He assured Mr. Meisner that the defendant Mary Sue Hubbard was concerned about the situation and was fully

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159/ Government Exhibit No. 137 was seized by Special Agent Brunson from a file cabinet located outside the office of the defendant Raymond.



aware of it, and that anything Mr. Meisner wanted to express to the defendant Hubbard would be sent directly to her. At the conclusion of the meeting, the defendant Snider asked Mr. Meisner to continue doing work for the Information Bureau. In his letter to the defendant Heldt reporting on that meeting (Government Exhibit No. 137), the defendant Snider concluded that Mr. Meisner "is not a traitor and will cooperate" with the Guardian's Office. (Emphasis added.)

Three days later, in a letter to defendant Weigand the defendant Hubbard added yet another dimension to the cover-up plan. She suggested that the following scenario be considered: Mr. Meisner (whom she refers to by the letter "H" for the code name Herbert which Mr. Meisner had assumed since going underground after the issuance of his arrest warrant) was having marital trouble and was jealous that his wife was being more productive than he. Therefore, he took it upon himself to organize the burglaries of government buildings and thefts of documents from those buildings to prove that he too could produce for the Guardian's Office. She instructed the defend-

ant Weigand that "[i]f this seems workable" then Mr. Meisner should be ordered to work on the details of this aspect of that plan. (Government Exhibit No. 135.) 160/ In response to an order that he received from his "senior", the defendant Heldt directed the defendant Willardson to contact the defendant Wolfe and instruct him to "push his lawyer to get the scene handled." (Government Exhibit No. 136.) 161/

On November 5, pursuant to the decision made during his meeting with the defendant Snider, Mr. Meisner was moved by Mr. Paul Poulan to a new apartment located at 840 South Serrano Street in Los Angeles, California. Mr. Meisner

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160/ Government Exhibit No. 135 was seized by Special Agent Brunson from a file cabinet in Room 10 in the Information Bureau at the Cedars Complex. Mr. Meisner identifies the handprinting on that letter above the typewritten words as being in the handwriting of the defendant Raymond. He further recognizes the initial next to the title "DG US" as having been written by the defendant Heldt.

161/ Government Exhibit No. 136 was seized by Special Agent John C. Kammerman from Room 15 in the Information Bureau at the Cedars Complex. It was inventoried and initialed by Special Agent Michael Ray Napier.



rented that apartment in the name of "Jeff Marks" with funds provided him by Mr. Poulon. Mr. Meisner resided at that location until the end of April 1977. On November 26, Mr. Meisner wrote a lengthy letter to the defendant Mary Sue Hubbard explaining to her the extent of his predicament. Government Exhibit No. 138.) 162/ In that letter, he expanded upon the various aspects which she had proposed in her October 31 letter to the defendant Weigand (Government Exhibit No. 135). Mr. Meisner told the defendant Hubbard, that regardless of what cover story was eventually used to handle the ever expanding Federal investigations in the District of Columbia, it would be necessary to explain where he had been living since June 11 when he was confronted by the FBI in the United States Courthouse. He explained that, in any event, the FBI would want to know how Mr. Meisner was able to support himself during all the time that he was in hiding. Thus, Mr. Meisner told the defendant Hubbard that

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162/ Government Exhibit No. 138 was seized by Special Agent Kammerman from a file cabinet in Room 15 in the Information Bureau at the Cedars Complex. It was initialed by Special Agent Napier.

he and the defendant Raymond had already worked out a plan, whereby Mr. Meisner would tell the FBI that he had been living with a friend in Canada. Mr. Meisner wrote that Canada was selected because the FBI had no authority to conduct investigations there. However, he also stated that a cover would have to be created in Canada. He concluded in a postscript that "in my opinion, no matter what story we use, the longer we wait to implement it, the less believable it will be and the more that the government will be inclined to believe that the Church is behind it."

On November 30, the defendant Mitchell Hermann (a/k/a Mike Cooper) wrote a briefing memorandum outlining step-by-step the activities in which the defendant Wolfe (Silver) and Mr. Meisner (Herbert/MM) had been involved in the District of Columbia, and the cover story which had been prepared since their encounter with the FBI. The defendant Hermann/Cooper explained that the defendant Wolfe and Mr. Meisner had been involved, from 1974 through June 1976, in the burglaries of Government offices and thefts of Government documents in



Washington, D.C. In the spring to summer of 1976, they had directed their attention to the office of Assistant United States Attorney Nathan Dodell in the United States Courthouse in Washington, D.C. It was there, on June 11, 1976, that they were confronted by the FBI. The defendant Hermann/Cooper stated that on June 12, Mr. Meisner had come to Los Angeles, where over the next few days a cover-up story and plan was prepared to contain and terminate the FBI investigation. On June 30, the defendant Wolfe was arrested by the FBI and subsequently gave the previously prepared cover-up story to the FBI and the Office of the United States Attorney for the District of Columbia. Then, on July 28, the defendant Wolfe's case was referred to a grand jury for investigation. On August 5, he pointed out, a sealed warrant had been issued for Mr. Meisner. He concluded that "an overall cover story for MM and Silver is being put together by Natl Sec to submit uplines for final approval." That briefing memorandum was sent on December 1, 1976, to the Deputy Guardian for Information World-Wide, via the defendants Heldt and Weigand, with

a copy to the defendant Raymond. (Government Exhibit No.

139.) 163/ The defendant Raymond sent to the defendant

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163/ Government Exhibit No. 139 was seized by Special Agent Kammerman from a file cabinet in Room 15 in the Information Bureau at the Cedars Complex. It was initialed by Special Agent Napier. At that time, the defendant Raymond held the position of National Secretary for the Information Bureau in the United States. Mr. Meisner identifies the handwritten word "Secret" at the top of page one as having been written by the defendant Hermann/Cooper.

During this time Mr. Meisner was undergoing regular auditing pursuant to the directive of the defendant Heldt. See Government Exhibit No. 140. Handwriting expert James Miller concludes as follows: "positive" that the word "handroute" at the top of page one and the notation "cc: DDGUS . . . ." in the routing portion also on page one were in the handwriting of the defendant Raymond; "positive" that the handwritten notation in the upper right-hand portion of page two, the 28 November 1976 letter from the defendant Heldt, as well as the signature on that page were written by the defendants Raymond and Heldt respectively; "positive" that the notation to "Cindy" in the upper part of page three was written by the defendant Heldt; "positive" that the notation "(enemy formula)" at the bottom of page six was written by the defendant Raymond; "positive" that the notation "CR: note no folders . . . ." two-thirds down on the eleventh page was written by the defendant Raymond; "positive" that the notations in the left margin were written by the defendant Raymond; "positive" that the handwritten routing on the reverse of page seventeen and the notation at the top of page eighteen were written by the defendant Raymond. Government Exhibit No. 140 was seized by Special Agent Brunson from a file cabinet in Room 10 of the Cedars Complex.



Weigand the cover-up plan and story intended to stall the FBI investigation in the District of Columbia (Government Exhibit No. 141 at p. 2 et seq.) <sup>164/</sup> She stated that once the defendant Wolfe's District of Columbia case was resolved, Mr. Meisner (Herbert) would be surrendered by the Church of Scientology and would give the agreed-upon cover-up story which she outlined. That story conformed to the one prepared and approved by the defendants Heldt, Snider, Weigand, and Willardson in mid-June and given to the defendant Wolfe. Appended to her letter was a project for the containment of the investigation which was being conducted by the FBI and United States Attorney's Office in the District of Columbia.

The defendant Weigand simultaneously informed the defendant Mary Sue Hubbard that the cover-up plan had been completed.

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<sup>164/</sup> Government Exhibit No. 141 was seized by Special Agent Brunson from a file cabinet outside Room 15 at the Information Bureau at the Cedars Complex. It was inventoried and initialed by Special Agent Napier.

He explained that:

As I see things now:

1. We turn Herbert in.
2. He says he did it via an attorney who should check the accuracy of the charge(s).
3. He says nothing more than guilty.
4. We establish lines as possible to see if the govt continues its investigation of us and if so we hit them with a full scale attack using BI, PR and Legal.
5. We get the Herbert case supervised closely by Legal and see that he gets the best treatment possible.

And that does it. The key thing being Herbert [Meisner] does not have to get into any cover with the Government. . . . The only complication I can see is that they might try to hit Herb for flight to avoid which needs to be worked out with Legal so that the handling is effective.

(Government Exhibit No. 141.) The defendant Weigand sent the same information to Deputy Guardian for Information World-



Wide Mo Budlong. (Government Exhibit No. 142.) 165/

G. The Federal Grand Jury Investigation  
in the District of Columbia Continues

On December 15, 1976, the Grand Jury investigation continued before a new Grand Jury of the United States District Court for the District of Columbia with the appearance of Special Agent Christine Hansen. 166/

In a briefing paper dated January 7, 1977, the defendant Hermann/Cooper informed the defendant Heldt that the Commodore Staff Guardian, defendant Mary Sue Hubbard, had "approved" a plan identical to the one previously laid out by the

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165/ Handwriting expert James Miller concludes that it is "highly probable" that the writing "Love, Dick" at the end of that letter is that of the defendant Weigand. Government Exhibit No. 142 was seized by Special Agent Brunson from a file cabinet outside Room 15 in the Cedars Complex. It was inventoried and initialed by Special Agent Napier.

166/ As mentioned supra, at page 212, a previous Grand Jury of that Court had, in October, issued a subpoena directing the Church of Scientology to surrender the personnel records and exemplars of Michael Meisner's known handwriting. See also Government Exhibit No. 214 for the Grand Jury docket entry reflecting Agent Hansen's appearance.

defendant Raymond on December 10, 1976. (Government Exhibit No. 143.) <sup>167/</sup> In that briefing paper the defendant Hermann/Cooper outlined for the defendant Heldt the following events: the arrest of the defendant Wolfe; the investigation which was being conducted by the FBI and the United States Attorney's Office; the cover-up story given by the defendant Wolfe; Principal Assistant United States Attorney Carl S. Rauh's statement that he did not believe that story; the assignment of the investigation to Assistant United States Attorney Garey Stark of the Fraud section; the statement by Wolfe's attorney "that the case has been prepared to go to the grand jury" (emphasis added); and the various attempts which were being made by the FBI to locate Mr. Meisner in Washington,

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<sup>167/</sup> See page five of Government Exhibit No. 143 and compare to Government Exhibit No. 141 at page 2 et seq. Handwriting expert James Miller concludes that it is "highly probable" that the signature "Love, Mike" at page four was written by the defendant Hermann/Cooper. Mr. Meisner identifies that signature, as well as the one on page six, and the handwriting in the routing portion of page one as having been written by the defendant Hermann/Cooper. A copy of Government Exhibit No. 143 was sent to the "CSG", defendant Mary Sue Hubbard, and to the defendant Raymond. Government Exhibit No. 143 was seized by Special Agent Kammerman in a file cabinet in Room 15 of the Cedars Complex. It was inventoried and initialed by Special Agent Napier.



D.C. He suggested that research should be conducted to determine if a "guilty plea would then eliminate the grand jury." He also stated that the defendant Wolfe had been directed not to give any further information beyond the cover-up story prepared for him by the Guardian's Office. (See Government Exhibit No. 143 at p. 5.)

On January 23, 1977, the defendant Hermann/Cooper notified the defendants Heldt and Weigand that the defendant Wolfe had a scheduled meeting with the United States Attorney's Office in Washington, D.C. He suggested that that meeting be used to present "further cover story to them as a possible means of forstalling [sic] a possible grand jury." He added, however, that the "furthr [sic] cover story needs to be elaborated." Thus, he appended to his "CSW" the original story with the additions that were prepared to "dovetail" with it. (Government Exhibit No. 144.) <sup>168/</sup> In handwritten

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<sup>168/</sup> Handwriting expert James Miller has reached the following conclusions: "positive" that the notation "Cindy's copy" on page one, the entire fourteen-line handwritten (footnote continued on next page.)

notations throughout the document, the defendant Raymond opposed some of the changes in the cover-up story proposed by the defendant Hermann/Cooper.

In an appended report beginning at page five of Government Exhibit No. 144, the defendant Hermann/Cooper outlined the final proposed cover-up story which in fact was given by the defendant Wolfe to the United States Attorney's Office, the FBI, and later to the United States Grand Jury for the District of Columbia. He included in that report the names of restaurants and bars which had earlier been left unnamed. One week later the defendant Hermann/Cooper reminded the Deputy Guardian for Legal Affairs in the United States Mary

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(footnote continued from preceding page.)

notation on page two, and the notations in the right-hand margins of pages three, four and seven, are all in the handwriting of the defendant Raymond. Mr. Meisner also identifies the notation in the left-hand margin of page one as having been written by the defendant Raymond, and the notation in the upper portion of page 5 as having been written by the defendant Hermann/Cooper. Government Exhibit No. 144 was seized by Special Agent Kammerman from a file cabinet in Room 15 in the Information Bureau in the Cedars Complex. It was inventoried and initialed by Special Agent Napier.



Rezzonico that "it is still planned to get Silver [Wolfe] out here for briefing prior to the meeting" which Wolfe had scheduled with the United States Attorney's Office. He expressed the defendant Wolfe's concern that the United States Attorney's Office would attempt to strike a deal with him to become a government witness. (Government Exhibit No. 146.) 169/

During the months of February and March 1977 the cover-up preparation by the Guardian's Office and Information Bureau slowed considerably due to the failure of the defendant

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169/ During the same period the defendant Hermann/Cooper requested Paul Klopfer the Legal Branch II Director U.S., to research whether the United States Attorney's Office could still conduct a grand jury investigation if the defendant Wolfe entered a guilty plea. (Government Exhibit No. 145.) Government Exhibit No. 145 was seized by Special Agent Aldrich from a file cabinet in the office of the defendant Willardson at the Cedars Complex. Government Exhibit No. 146 was seized by Special Agent Kammerman from a file cabinet in Room 15 of the Information Bureau at that complex. The latter document was inventoried and initialed by Special Agent Napier. Mr. James Miller, the handwriting analyst, concludes that it is "probable" that the signature "Mike" on Government Exhibit No. 146 was written by the defendant Hermann/Cooper. Mr. Meisner identifies that signature as that of the defendant Hermann/Cooper.

Mitchell Hermann (a/k/a Mike Cooper) to complete the outstanding aspects of the cover-up story, and because of the defendant Wolfe's waiver of the rule requiring an indictment within forty-five days of arrest. 170/ The defendant Raymond and Mr. Meisner continued to elaborate upon various portions of that cover-up story. The defendants Willardson and Raymond assigned Mr. Meisner the task of preparing other covert operations and projects. During this period, Mr. Meisner continued to be audited three times a week.

Towards mid-March, however, Mr. Meisner became upset at the lengthy delays and complained to the defendant Raymond, who informed her superiors of Mr. Meisner's dissatisfaction. The defendant Weigand notified Mr. Meisner that the defendant Hermann/Cooper had been removed from the Information Bureau in part for his failure to properly handle the cover-up, and was assigned to the Services Bureau. He was replaced as

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170/ Rule 4(a)(1) of the Rules of the United States District Court for the District of Columbia provides that indictments are to be returned within forty-five days of any arrest which occurred prior to July 1, 1976.



cover-up coordinator by the defendant Raymond. Simultaneously, Brian Andrus was appointed to replace the defendant Hermann/Cooper Southeast U.S. Secretary. 171/ Soon thereafter, Mr. Andrus also became Mr. Meisner's case officer.

On March 27, 1977, the defendant Raymond sent a "CSW" to the defendants Heldt and Weigand emphasizing the need for action in regard to the defendant Wolfe's and Mr. Meisner's situation in Washington, D.C. She pointed out that she had recently been assigned the task of coordinating the cover-up and reminded them that the Commodore Staff Guardian, the defendant Mary Sue Hubbard, and the Guardian's Office World-Wide had ordered the containment of the grand jury investigation.

(Government Exhibit No. 147.) 172/

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171/ See Government Exhibit No. 147 at page three where the defendant Raymond indicated that the defendant Hermann/Cooper "was badly suppressing the lines and giving no or false information, keeping both Legal and BI in a confusion as to exactly what to do." Government Exhibit No. 147 was seized by Special Agent Brunson from a file cabinet outside Room 15 of the Cedars Complex. It was inventoried and initialed by Special Agent Napier.

172/ During the few months prior to March 1977, the defendant Raymond had shown Mr. Meisner much of the  
(footnote continued on next page.)

H. The Guardian's Office Cover-Up  
Moves Into its Final Phase

In late March, Mr. Meisner wrote to the defendant Heldt requesting him to take a more active role in the handling of the District of Columbia situation because the delays were becoming intolerable. Mr. Meisner stated that he was prepared to return to the District of Columbia and handle the matter himself. Soon thereafter, the defendant Heldt became more active in supervising the execution of the cover-up. To that end, on April 1, 1977, the defendant Heldt told the

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(footnote-continued from preceding page.)

correspondence within the Guardian's Office concerning ongoing research for the cover-up. See, e.g., Government Exhibits Nos. 147A and 147B. Handwriting expert James Miller positively identifies the handwriting of the defendant Raymond on the following pages: page one - the notation "A Rush"; page two - the three-line handwritten notation in the middle of the first line; pages four, five and six - the handwritten notations; page nine - the handwriting at the bottom of the page; page thirteen - all writings in both margins; page seventeen - the handwritten notation in the upper portion of the right margin. Mr. Miller also positively identifies the initials and date next to the title "DG I US" in the routing portion of page one as being in the handwriting of the defendant Weigand. Moreover, Mr. Meisner identifies the initials next to the title "DG US" on that same routing as being in the handwriting of the defendant Heldt.



5, Mr. Meisner determined that it was in his best interest to cooperate with his captors. He corresponded with the defendant Heldt in an attempt to resolve his predicament and to have the guards removed. <sup>188/</sup> He also accepted auditing. <sup>189/</sup>

On May 13, 1977, the defendant Wolfe entered a plea of guilty to a one-count information charging him with the wrongful use of a Government seal, in violation of 18 U.S. Code, Section 1017, before United States District Judge

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<sup>188/</sup> See Government Exhibit No. 164 at p. 3 et seq. That exhibit was seized by Special Agent Aldrich from the defendant Willardson's office at the Cedars Complex.

<sup>189/</sup> Meisner's account of the events of the first days in May is corroborated by the defendant Weigand in a letter to Mr. Budlong, by Mr. Andrus in a letter to the defendant Heldt, (see Government Exhibit No. 164), and by the defendant Weigand in a letter dated May 8, 1977 to the defendant Heldt. (See Government Exhibit No. 165.) According to Mr. Miller, the handwritten letter signed "H" and addressed to "Herb", located at page six and seven of Government Exhibit No. 164, was written in its entirety by the defendant Heldt. Mr. Meisner concurs in that finding. Handwriting expert Miller concludes that the defendant Heldt wrote the note to Brian Andrus on the 5 May 1977 letter appended to Government Exhibit No. 165. Mr. Miller also finds that it is "probable" that the defendant Heldt wrote the initial next to the title "DG US" on that letter. Mr. Meisner identifies that initial as having been written by the defendant Heldt. Furthermore, he recognizes the signature at the end of that letter as having been written by Mr. Brian Andrus.

Thomas A. Flannery in Washington, D.C. The defendant Wolfe's plea specifically involved the June 11, 1976 entrance into the United States Courthouse in that city and his use of the IRS identification card bearing the name "Thomas Blake". A few days thereafter, Mr. Meisner was informed of this new development by Mr. Andrus. By the third week of May, in part due to Mr. Meisner's cooperation, his watch was relaxed and his guards began to take him out of the apartment. 190/ At that time, Brian Andrus showed Mr. Meisner a program

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190/ In a letter dated 13 May, the defendant Willardson instructed the defendant Raymond to take control of the guards. He complained that they could not involve any more Information Bureau personnel in this matter. See Government Exhibit No. 167. Page four of that exhibit included a weekend guard schedule for "Herbert" (Mr. Meisner). It listed the following individuals as guards: Jim Douglass, Chuck Reese, Peeter Alvet, John Lake, George Pilat, and Gary Lawrence. Handwriting expert James Miller concludes as follows: "positive" that the first two pages were handwritten by the defendant Willardson; "positive" that the notation on the third page from "Cindy" to "Greg" was written by the defendant Raymond; and "positive" that the handwritten notation on the last page addressed "Dear Cindy" was written by the defendant Willardson. Government Exhibit No. 167 was seized by Special Agent Hillman from Room 15 at the Cedars Complex. It was inventoried and initialed by Special Agent Gonzales.



written by DG I WW Mo Budlong which approved the final plan for handling the cover-up. Mr. Andrus told Mr. Meisner that Mr. Budlong had decided that Mr. Meisner could not surrender to the FBI in Washington, D.C. until the IRS had granted the Church of Scientology of California's request for tax exempt status.

J. Michael Meisner's First  
Escape from his Guards

By the end of May, Mr. Meisner was guarded by just one person. On May 29, while he was out with his guard, John Matoon, Mr. Meisner escaped by jumping into a taxicab. He went to the Greyhound Bus Station, and took a bus to Las Vegas. Mr. Meisner did not have much money, but having been there previously he knew a motel which he could afford. He escaped from his guard because he wanted time to think about his predicament and to determine an appropriate course of action. At that time, Mr. Meisner was still committed to Scientology, and did not want to leave the organization precipitously.

On May 30, Mr. Meisner telephoned the defendant Raymond in Los Angeles and requested to speak to either Mr. Brian Andrus or Mr. Jim Douglass. Since Mr. Andrus was unavailable, Mr. Douglass spoke to Mr. Meisner. Mr. Meisner refused to state where he was staying in Las Vegas until he first spoke to defendant Heldt. Therefore, a telephone call was scheduled for 8:30 that evening. The defendant Heldt pleaded with Mr. Meisner to return to Los Angeles and the Guardian's Office of the Church of Scientology. 191/ While Mr. Meisner

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191/ The defendant Raymond immediately notified her new superior, Temporary Deputy Guardian for Information U.S. (T/DG I US) Brian Andrus, of Mr. Meisner's telephone call to her and of the defendant Heldt's telephone discussion with Mr. Meisner that evening. She concluded that "[t]he only thing I can think of is that we work a cover story that he is trying to blackmail the Church for money by pretending that the Church harbored him for the last months making the Church a party to the crime." (Emphasis added.) (Government Exhibit No. 168.)

That same day, the defendant Raymond sent Ms. Mary Rezzonico (DG L US) a letter requesting her to brief the thirteen people who had had contact with Mr. Meisner and who knew he had been harbored by Scientology. (See Government Exhibit No. 169.) Both documents were seized by Special Agent Williams from a desk in Room 15 in the Information Bureau at the Cedars Complex. They were inventoried and initialed by Special Agent Mislock. Handwriting expert James Miller positively identifies the handwriting on pages three and five of Government Exhibit No. 168 as having been written by the defendant Raymond.



initially refused, he did agree to meet with Mr. Douglass the next day in Las Vegas.

On May 31, Mr. Meisner met with Mr. Douglass at a prearranged crowded location. They discussed Mr. Meisner's concerns, and Mr. Douglass urged Mr. Meisner to return with him. Mr. Meisner refused. By the next morning the Guardian's Office had learned where he had been staying, and he was confronted by Information Bureau official Chuck Reese, who insisted that Mr. Meisner return with him to Los Angeles. Mr. Reese represented to Mr. Meisner that the defendant Weigand had been removed from his position as Deputy Guardian for Information in the United States, and had been temporarily replaced by Brian Andrus, who had been Mr. Meisner's case officer. Mr. Meisner first spoke to the defendant Heldt who promised to meet with him that evening if he returned to Los Angeles. Mr. Meisner, still troubled and confused, agreed, nonetheless, to return to Los Angeles.

That same night, Mr. Meisner and the defendant Heldt met at Canter's Restaurant in Los Angeles. The defendant Heldt

assured Mr. Meisner that he understood Mr. Meisner's feelings. He told him that both L. Ron Hubbard and the defendant Mary Sue Hubbard were working on his case and would do everything to help him. He explained that while Mr. Meisner would have to continue to be guarded, he should consider his guards his friends and not his enemies. Mr. Meisner agreed to remain with the Guardian's Office. He was driven to his Descanso Drive apartment by the defendant Heldt and Mr. Reese. When he arrived, Mr. Meisner was met by Mr. Douglass who had been waiting to guard him. Mr. Meisner describes the then-existing situation as an "armed truce".

In the meantime, Brian Andrus, on May 31, had ordered the defendant Raymond to find a "secured" place for Meisner to stay if and when he returned from Las Vegas. He suggested "a place where he could be locked in a room that has no or a very small window" and where he would have "no outside contact". (Government Exhibit No. 170.) <sup>192/</sup> On June 1,

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<sup>192/</sup> Government Exhibit No. 170 was seized by Special Agent Williams from a desk in Room 15 at the Cedars Complex. It was inventoried and initialed by Special Agent Mislock. Mr. Meisner identifies the handwriting notation "changed by verbal order" as having been written by the defendant Raymond, and the signature "Brian" as having been written by Mr. Andrus.



Mr. Meisner was moved by his guards to an apartment located at 327 South Verdugo in Glendale, California. During the entire month he continued to be guarded by at least one person.

K. The Defendant Wolfe's Sentencing and  
Subsequent Testimony Before the Grand  
Jury in the District of Columbia.

On June 10, the defendant Wolfe was sentenced by United States District Judge Thomas A. Flannery to a term of probation, and was required to perform one hundred hours of community service. Inasmuch as he resided in Minnesota, the case was transferred both for probation supervision and jurisdiction to that state. Immediately following his sentencing, the defendant Wolfe was served with a subpoena to appear that same afternoon before the United States Grand Jury for the District of Columbia which had been investigating the entries into the United States Courthouse there.

At approximately 1 p.m., the defendant Wolfe appeared before the October 1976 Grand Jury of the United States

notations throughout the document, the defendant Raymond opposed some of the changes in the cover-up story proposed by the defendant Hermann/Cooper.

In an appended report beginning at page five of Government Exhibit No. 144, the defendant Hermann/Cooper outlined the final proposed cover-up story which in fact was given by the defendant Wolfe to the United States Attorney's Office, the FBI, and later to the United States Grand Jury for the District of Columbia. He included in that report the names of restaurants and bars which had earlier been left unnamed. One week later the defendant Hermann/Cooper reminded the Deputy Guardian for Legal Affairs in the United States Mary

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Thomas A. Flannery in Washington, D.C. The defendant Wolfe's plea specifically involved the June 11, 1976 entrance into the United States Courthouse in that city and his use of the IRS identification card bearing the name "Thomas Blake". A few days thereafter, Mr. Meisner was informed of this new development by Mr. Andrus. By the third week of May, in part due to Mr. Meisner's cooperation, his watch was relaxed and his guards began to take him out of the apartment. 190/ At that time, Brian Andrus showed Mr. Meisner a program

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190/ In a letter dated 13 May, the defendant Willardson instructed the defendant Raymond to take control of the guards. He complained that they could not involve any more Information Bureau personnel in this matter. See Government Exhibit No. 167. Page four of that exhibit included a weekend guard schedule for "Herbert" (Mr. Meisner). It listed the following individuals as guards: Jim Douglass, Chuck Reese, Peeter Alvet, John Lake, George Pilat, and Gary Lawrence. Handwriting expert James Miller concludes as follows: "positive" that the first two pages were handwritten by the defendant Willardson; "positive" that the notation on the third page from "Cindy" to "Greg" was written by the defendant Raymond; and "positive" that the handwritten notation on the last page addressed "Dear Cindy" was written by the defendant Willardson. Government Exhibit No. 167 was seized by Special Agent Hillman from Room 15 at the Cedars Complex. It was inventoried and initialed by Special Agent Gonzales.



written by DG I WW Mo Budlong which approved the final plan for handling the cover-up. Mr. Andrus told Mr. Meisner that Mr. Budlong had decided that Mr. Meisner could not surrender to the FBI in Washington, D.C. until the IRS had granted the Church of Scientology of California's request for tax exempt status.

J. Michael Meisner's First  
Escape from his Guards

By the end of May, Mr. Meisner was guarded by just one person. On May 29, while he was out with his guard, John Matoon, Mr. Meisner escaped by jumping into a taxicab. He went to the Greyhound Bus Station, and took a bus to Las Vegas. Mr. Meisner did not have much money, but having been there previously he knew a motel which he could afford. He escaped from his guard because he wanted time to think about his predicament and to determine an appropriate course of action. At that time, Mr. Meisner was still committed to Scientology, and did not want to leave the organization precipitously.

On May 30, Mr. Meisner telephoned the defendant Raymond in Los Angeles and requested to speak to either Mr. Brian Andrus or Mr. Jim Douglass. Since Mr. Andrus was unavailable, Mr. Douglass spoke to Mr. Meisner. Mr. Meisner refused to state where he was staying in Las Vegas until he first spoke to defendant Heldt. Therefore, a telephone call was scheduled for 8:30 that evening. The defendant Heldt pleaded with Mr. Meisner to return to Los Angeles and the Guardian's Office of the Church of Scientology. 191/ While Mr. Meisner

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191/ The defendant Raymond immediately notified her new superior, Temporary Deputy Guardian for Information U.S. (T/DG I US) Brian Andrus, of Mr. Meisner's telephone call to her and of the defendant Heldt's telephone discussion with Mr. Meisner that evening. She concluded that "[t]he only thing I can think of is that we work a cover story that he is trying to blackmail the Church for money by pretending that the Church harbored him for the last months making the Church a party to the crime." (Emphasis added.) (Government Exhibit No. 168.)

That same day, the defendant Raymond sent Ms. Mary Rezzonico (DG L US) a letter requesting her to brief the thirteen people who had had contact with Mr. Meisner and who knew he had been harbored by Scientology. (See Government Exhibit No. 169.) Both documents were seized by Special Agent Williams from a desk in Room 15 in the Information Bureau at the Cedars Complex. They were inventoried and initialed by Special Agent Mislock. Handwriting expert James Miller positively identifies the handwriting on pages three and five of Government Exhibit No. 168 as having been written by the defendant Raymond.



initially refused, he did agree to meet with Mr. Douglass the next day in Las Vegas.

On May 31, Mr. Meisner met with Mr. Douglass at a prearranged crowded location. They discussed Mr. Meisner's concerns, and Mr. Douglass urged Mr. Meisner to return with him. Mr. Meisner refused. By the next morning the Guardian's Office had learned where he had been staying, and he was confronted by Information Bureau official Chuck Reese, who insisted that Mr. Meisner return with him to Los Angeles. Mr. Reese represented to Mr. Meisner that the defendant Weigand had been removed from his position as Deputy Guardian for Information in the United States, and had been temporarily replaced by Brian Andrus, who had been Mr. Meisner's case officer. Mr. Meisner first spoke to the defendant Heldt who promised to meet with him that evening if he returned to Los Angeles. Mr. Meisner, still troubled and confused, agreed, nonetheless, to return to Los Angeles.

That same night, Mr. Meisner and the defendant Heldt met at Canter's Restaurant in Los Angeles. The defendant Heldt

assured Mr. Meisner that he understood Mr. Meisner's feelings. He told him that both L. Ron Hubbard and the defendant Mary Sue Hubbard were working on his case and would do everything to help him. He explained that while Mr. Meisner would have to continue to be guarded, he should consider his guards his friends and not his enemies. Mr. Meisner agreed to remain with the Guardian's Office. He was driven to his Descanso Drive apartment by the defendant Heldt and Mr. Reese. When he arrived, Mr. Meisner was met by Mr. Douglass who had been waiting to guard him. Mr. Meisner describes the then-existing situation as an "armed truce".

In the meantime, Brian Andrus, on May 31, had ordered the defendant Raymond to find a "secured" place for Meisner to stay if and when he returned from Las Vegas. He suggested "a place where he could be locked in a room that has no or a very small window" and where he would have "no outside contact". (Government Exhibit No. 170.) 192/ On June 1,

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192/ Government Exhibit No. 170 was seized by Special Agent Williams from a desk in Room 15 at the Cedars Complex. It was inventoried and initialed by Special Agent Mislock. Mr. Meisner identifies the handwriting notation "changed by verbal order" as having been written by the defendant Raymond, and the signature "Brian" as having been written by Mr. Andrus.



Mr. Meisner was moved by his guards to an apartment located at 327 South Verdugo in Glendale, California. During the entire month he continued to be guarded by at least one person.

K. The Defendant Wolfe's Sentencing and  
Subsequent Testimony Before the Grand  
Jury in the District of Columbia.

On June 10, the defendant Wolfe was sentenced by United States District Judge Thomas A. Flannery to a term of probation, and was required to perform one hundred hours of community service. Inasmuch as he resided in Minnesota, the case was transferred both for probation supervision and jurisdiction to that state. Immediately following his sentencing, the defendant Wolfe was served with a subpoena to appear that same afternoon before the United States Grand Jury for the District of Columbia which had been investigating the entries into the United States Courthouse there.

At approximately 1 p.m., the defendant Wolfe appeared before the October 1976 Grand Jury of the United States

District Court for the District of Columbia. 193/ He was represented by attorney, David Schmidt, Esquire. The defendant Wolfe was sworn by Grand Jury Foreperson Mildred Chaplin. The record was transcribed by an official Grand Jury reporter, Ms. Judith Bracegirdle Warner, who states that Government Exhibit No. 215 is the complete testimony given by the defendant Wolfe on that day.

At the time of the defendant Wolfe's appearance, the Grand Jury was conducting an investigation to determine whether violations of statutes of the United States and the District of Columbia had been committed in the District of Columbia. The Grand Jury was attempting to identify the individuals who had committed, caused the commission of, and conspired to commit such violations. It was material to its investigation for it to determine the reasons for the presence of the defendant Wolfe and one "John M. Foster" in the United

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193/ United States District Court Clerk James F. Davey states that the records of that Court reveal that the October 1976 Grand Jury had been sworn in on October 13, 1976, and was authorized to conduct investigations and hear evidence on behalf of the Court on June 10, 1977. Its term did not expire until April 1978.



States Courthouse in the District of Columbia on May 21, 28 and June 11, 1976. The Grand Jury was seeking the reasons for the defendant Wolfe's use on May 28 of an identification card bearing the last name "Haake", and his use on June 11, 1976, of counterfeit IRS credentials bearing the name of "Thomas J. Blake". It was also material for the Grand Jury to determine whether, while in the United States Courthouse, the defendant Wolfe and the individual using the name "Foster" had entered the office of any Assistant United States Attorney for the District of Columbia, and, if so, whether they had unlawfully taken any documents or files located therein. Moreover, the Grand Jury wanted to learn whether the defendant Wolfe and "Mr. Foster" had photocopied any documents which were the property of the Office of United States Attorney for the District of Columbia, and the United States of America, on photocopying machines within that office. The Grand Jury sought to learn from the defendant Wolfe the true identity of the individual who had entered the Courthouse with him and used the name "John M. Foster". It also was inquiring into

the manner in which the defendant Wolfe and "Mr. Foster" had obtained the counterfeit and forged IRS credentials which they had used to enter the Courthouse. Finally, the Grand Jury was attempting to determine whether any other individual in the District of Columbia or elsewhere had conspired with, aided and abetted, or caused the defendant Wolfe to obtain his counterfeit IRS credentials, or assisted him in entering the United States Courthouse for the District of Columbia.

During his testimony under oath before the federal Grand Jury, the defendant Wolfe knowingly made the following false declarations regarding the above-mentioned material matters which the grand jury was investigating:

Statement No. 1

Q. When did you first come to know that the D.C. Bar Association had a library on the third floor of this building?

A. I don't remember exactly the date.

Q. Why did you want to come to this library?

A. To study.



Q. To study what?

A. To learn how to do legal research.

Q. Why did you want to learn to do legal research?

A. Well, I was planning on going back to Minneapolis to complete or further my studies in music and I thought that in addition to clerical skills that I had that if I could learn to do some legal research that I could perhaps get a better paying, more interesting job to help pay for my school.

Q. Where would you find that job?

A. In Minneapolis, I presume.

Q. Who would hire you in Minneapolis?

A. I don't know. A law firm, perhaps.

Q. Did you embark on this program to learn how to do legal research with the idea in mind of presenting yourself to a Minneapolis law firm and saying, "I can do legal research for you"?

A. Yeah, I think so.

Q. You don't know?

A. That's what I had in mind.

\* \* \*

Q. How did you propose to learn to do legal research in the D.C. Bar library?

A. Someone was going to teach me.

Q. Who was that someone?

A. John Foster. (Government Exhibit No. 215 at 15-16, 17-18) 194/

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Statement No. 2

Q. Now, the first night that you were here in the courthouse, did you xerox anything?

A. I don't think so but I don't recall exactly, you know, which night.

Q. How long were you here on that first occasion?

A. I don't remember how long exactly.

Q. Approximately.

A. I don't know. Guessing, I'd say maybe an hour.

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194/ The underscored portions of the declarations of the defendant Wolfe were material to the Grand Jury and the indictment charges that the defendant Wolfe "then and there well knew, were false."



Q. Did you go anywhere else but the library that night?

A. I don't know. I do know that one or more of the times here I did go to the men's room. Now, whether it was the first night or not that I couldn't recall exactly.

Q. Did you have to leave the library to go to the men's room?

A. Yes.

\* \* \*

Q. Apart from going to the men's room, did you go anywhere else in the courthouse that night?

A. I don't think so.

Q. From the first to the third floor library and back onto the first floor and out?

A. Right. (Government Exhibit No. 215 at 173, 174.)

\* \* \*

Statement No. 3

Q. Do you recall ever doing any xeroxing on the third floor of this building on any of the three occasions?

A. Yes.

\* \* \*

Q. What did you xerox?

A. Case histories.

Q. Case histories? What's a case history?

A. Well, a case out of a law book which contains cases.

\* \* \*

Q. Did you bring the books from the library to the xerox machines?

A. Myself, yes, some of them.

Q. Did Mr. Foster carry books?

A. Yes.

Q. How many did you carry?

A. Approximately five.

Q. And how many did he carry?

A. Approximately the same.

Q. Were they the same type of books?

A. You mean as mine? Yes, I think so.

\* \* \*



Q. And how long did you use the xerox machine?

A. Approximately fifteen minutes to a half hour.

Q. No longer than half an hour?

A. I don't think so.

Q. And what did you do when you left?

A. Brought the books back to the library and just left. (Government Exhibit No. 215 at 179-180, 184-185.)

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Statement No. 4

MR. STARK: Let me inform you, however, that the grand jury and the U.S. Attorney's Office have a joint responsibility to investigate criminality that occurs within the District of Columbia.

Now, you may have made your plea of guilty in this case and been sentenced today but Mr. Foster has not. Now, we are investigating Mr. Foster's involvement in this and there may come a time when Mr. Foster is sitting either in that chair or in the defendant's chair before a petit jury.

And your version of what happened on these three occasions will aid this grand jury in its determination of what if anything to charge Mr. Foster with. Do you understand that?

Q. Now, did you know Mr. Foster by any other name?

A. No, I didn't.

Q. You only knew him by John Foster?

A. Right. (Government Exhibit No. 215 at 200-201.) 195/

The defendant Wolfe knew that the testimony he was giving to the Grand Jury of the United States District Court for the District of Columbia on June 11, 1977, was false in all material respects. He knew that the individual who had entered the Courthouse with him using the name "John M. Foster" was in fact Michael Meisner, who at the time of the entries was the Assistant Guardian for Information in the District of Columbia. He knew Mr. Meisner's address and telephone number in Arlington, Virginia, as well as Mr. Meisner's telephone number at the Church of Scientology offices at 2125 S Street, N.W., in

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195/ The complete transcript of Mr. Wolfe's Grand Jury testimony is submitted to the Court as evidence, and is incorporated as part of this record. See Government Exhibit No. 215.



Washington, D.C. The defendant Wolfe had obtained employment at the Internal Revenue Service knowing that he was a covert operative for the Guardian's Office of the Church of Scientology, and that his purpose for being at the IRS was to have access to Government documents in order to steal them for the Guardian's Office. He was aware that the counterfeit IRS credentials had been used by himself and Mr. Meisner to make illegal entries into various Government buildings for the purpose of burglarizing offices and stealing documents and photocopies thereof located therein. He and Mr. Meisner had entered the United States Courthouse on May 21, 28 and June 11, 1976, for the purpose of burglarizing the office of Assistant United States Attorney Nathan Dodell and stealing documents from that office. Indeed, they had accomplished that task on May 21 and 28, 1976. The defendant Wolfe also was fully aware that he and Mr. Meisner had not gone into the United States Courthouse to use the Library of the Bar Association of the District of Columbia to do legal research, and that Mr. Meisner was not to teach him to do any legal research.

He knew that they did not, at any time, photocopy law-books or cases contained in law books which were taken from the library but had, in fact, photocopied, with United States Government equipment and supplies, United States Government documents taken from Mr. Dodell's office. The defendant Wolfe further knew that the burglaries of, and thefts of documents from, the office of Assistant United States Attorney Dodell were pursuant to Guardian Program Order 158. Mr. Meisner had fully briefed him on that Guardian Program Order, as well as the orders which he had received from his superiors in Los Angeles, California, including the defendants Heldt, Weigand, Willardson, Snider, Raymond, Hermann, and Hubbard. The defendant Wolfe participated in the preparation of the cover-up story in Los Angeles, California, on June 14, 1976, together with the defendants Willardson, Weigand and Mr. Meisner. He was repeatedly briefed by Guardian's Office officials both in the District of Columbia and in Los Angeles regarding the cover-up story and his contrived statements to the United States Attorney's Office for the District of



Columbia, the Federal Bureau of Investigation, and the Grand Jury of the United States District Court for the District of Columbia. Indeed, when the defendant Wolfe appeared before the Grand Jury on June 10, 1977, he was under specific orders from the Guardian's Office of the Church of Scientology, including, at one time or another, the defendants Hubbard, Heldt, Snider, Weigand, Willardson, Raymond and Hermann, to make false material declarations to that Grand Jury for the purpose of derailing the Grand Jury investigation and preventing that Grand Jury from discovering the actual facts about the involvement of the above-named defendants, the Guardian's Office of the Church of Scientology in the United States and at World-Wide, and Mr. Meisner. All of the defendant Wolfe's testimony before the Grand Jury of the United States District Court in the District of Columbia, on June 10, 1977, including the statements quoted above and at Counts 25 through 28 of the indictment, conformed in detail to the cover-up plan and story prepared by the defendant Wolfe, the other named defendants and Mr. Meisner. All the false declarations made by the

defendant Wolfe were material to the investigation being conducted by the October 1976 Grand Jury of the United States District Court of the District of Columbia with the assistance of the Office of the United States Attorney for the District of Columbia.

L. The Defendant Wolfe is Debriefed  
by the Guardian's Office After his  
Grand Jury appearance.

Immediately following his Grand Jury appearance the defendant Wolfe went to the office of the Church of Scientology at 2125 S Street, N.W., in Washington, D.C. where he was debriefed by Guardian's Office officials. The next day, on June 12, a transcript of that debrief was sent to the Guardian's Office in Los Angeles, California, and excerpted by Legal Bureau official Paul Kloppe in a memorandum to his superior, Deputy Guardian for the Legal Bureau Mary Rezzonico. That memorandum, entitled "Silver Hearing and Grand Jury" summarized the sentencing proceedings before Judge Flannery and the testimony of the defendant Wolfe. (Government Exhibit



No. 173.) 196/ According to the routing on the June 12 letter, copies of that letter and debrief were sent to the "CSG", defendant Mary Sue Hubbard, the "DG US", defendant Henning Heldt, the "DGI US" Brian Andrus and the Guardian World-Wide Jane Kember. 197/ Pursuant to the order of the defendant Heldt (Government Exhibit No. 171) 198/ Ms. Rezzonico and Mr. Andrus gave Mr. Meisner the debrief contained in Government Exhibit No. 173 to read so that he could start adjusting his cover-up story to that given by the defendant Wolfe in the Grand Jury. Mr. Meisner read the defendant Wolfe's Grand Jury debrief at his apartment on South Verdugo. 199/ In his directive to Ms. Rezzonico and Mr. Andrus,

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196/ Government Exhibit No. 173 was seized by Special Agent William R. Stovall from the defendant Heldt's desk at the Fifield Manor.

197/ Mr. Meisner identifies the handwriting of the defendant Raymond at page five, the margins at pages ten, eleven, thirteen, twenty-one through twenty-four and at the bottom of page twenty-six.

198/ Government Exhibit No. 171 was seized by Special Agent LeVine from the defendant Heldt's desk at the Fifield Manor.

199/ Appended to the Wolfe Grand Jury debrief were two newspaper clippings from the Washington Post and Washington Star, regarding Wolfe's sentencing.

the defendant Heldt also ordered them to research any possible fugitive charge against Mr. Meisner and to increase security. 200/

On June 16, Mr. Andrus informed Ms. Rezzonico that "Herb [Meisner] was given the news. His reaction was mild pleasure. He uplifted his eyebrows and said something like 'not bad'. He learned the news by reading the hearing debrief." (Government Exhibit No. 172.) 201/

According to Mr. Andrus, Mr. Meisner complained that "he didn't feel that anyone was concerned or really looking out for his own welfare." Mr. Andrus assured him that he would keep him informed of all new developments and would see him again soon.

On June 13, the defendant Heldt and Mr. Andrus visited Mr. Meisner in order to show him a handwritten letter from

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200/ Handwriting expert James Miller has positively identified the defendant Heldt as the writer of the entire letter marked Government Exhibit No. 171.

201/ Government Exhibit No. 172 was seized by Special Agent Williams from a desk in Room 15 in the Information Bureau in the Cedars Complex. It was inventoried and initialed by Special Agent Mislock. Mr. Meisner identifies the signature at the end of that letter as that of Mr. Andrus.



the defendant Mary Sue Hubbard. The defendant Heldt read to him that letter in which the defendant Hubbard warned Mr. Meisner that if he escaped from his guards again he would be on his own.

On June 17, Mr. Andrus met once again with Mr. Meisner. He discussed with him the potential legal defenses prepared by the Legal Bureau, and left the meeting feeling that "Herb was again in better shape communication and duplication wise."

In Government Exhibit No. 174, Mr. Andrus informed the defendant Willardson, who had by now assumed the duties of Temporary Deputy Guardian for Information in the United States of the meeting which he had with Mr. Meisner. 202/

M. Michael Meisner Surrenders  
to the Federal Bureau of  
Investigation

By mid-June, Mr. Meisner had decided that if the watch over him were ever relaxed, he would immediately leave the

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202/ Government Exhibit No. 174 was seized by Special Agent Williams from a desk in Room 15 in the Information Bureau in the Cedars Complex. It was inventoried and initialed by Special Agent Mislock.

Guardian's Office, surrender to the federal authorities, plead guilty, and cooperate in the ongoing investigation. Thus, he feigned cooperation with his captors and his superiors in the Guardian's Office in the hope that eventually his guards might be removed. As a reward for this cooperation, Mr. Meisner's watch was relaxed. In fact, beginning on the evening of Friday, June 17, he was no longer guarded at night. His guards would leave his apartment at night and return at 9 a.m. the next morning.

On Monday, June 20 at 6 a.m., Mr. Meisner, taking a few clothes with him, left his apartment on South Verdugo in Glendale, California, for the purpose of surrendering to federal authorities. In order to elude any potential follower, Mr. Meisner took two buses to a bowling alley, from which he placed a collect call to Assistant United States Attorney Garey Stark in Washington, D.C. Mr. Meisner identified himself to the operator as "Gerald Wolfe" because he feared that the Guardian's Office of the Church of Scientology might have placed a covert operative in the United States Attorney's Office. When Mr. Stark answered the telephone



Mr. Meisner identified himself by his real name, informed Mr. Stark that he was ready to surrender, plead guilty for his participation in the criminal activities of the Guardian's Office, and cooperate with the United States. Mr. Stark directed him to stay at the bowling alley and wait for Federal Bureau of Investigation agents. Approximately two hours later, three agents of the FBI met Mr. Meisner at the bowling alley. Mr. Meisner surrendered to the agents and was taken by them to Los Angeles Airport where he was placed on an airplane to the Baltimore-Washington International Airport. Upon his arrival in Baltimore, he was met by FBI Special Agents Robert S. Tittle and James R. Kramarsic. He was kept that night in a motel and taken the next morning, June 21, to the office of Assistant United States Attorney Garey G. Stark. At the insistence of the Assistant United States Attorneys assigned to the investigation, Mr. Meisner conferred with an attorney appointed to him by United States Magistrate Henry H. Kennedy, Jr. After conferring with his court-appointed attorney, Mr. Meisner agreed to enter a plea of

guilty to a five-year conspiracy felony pursuant to 18 U.S. Code, Section 371, without any other condition except that he would fully cooperate with the Grand Jury investigation. Mr. Meisner was, of course, warned that any false statement he made would be prosecuted as perjury. Mr. Meisner requested and was granted protective custody by the United States Marshal Service. He has been in the Marshal Service's protective custody since June 21, 1977.

From June 20 to June 22, the defendants and other officials of the Guardian's Office notified each other of Mr. Meisner's disappearance. On June 20, the defendant Willardson informed the defendant Heldt that "Herbert [Meisner] was found missing today." He stated that Brian Andrus had found in Mr. Meisner's apartment a note stating that Mr. Meisner would call in a week, that he was not going anywhere where he could be located, and that there was no purpose in discussing his motivations. The defendant Willardson informed the defendant Heldt that Mr. Meisner had last been seen by his guard on Sunday, June 18 at 6:00 p.m. He speculated



that Mr. Meisner was hiding somewhere in Los Angeles, probably doing legal research in a library regarding his possible legal defenses in the District of Columbia case. He added that a Guardian's Office official had been sent to Mr. Meisner's apartment to remove any documents connecting Mr. Meisner to Scientology, and to wipe-out all possible fingerprints.

(Government Exhibit No. 175.) 203/ A copy of that letter was sent to the defendant Mary Sue Hubbard ("CSG"), the defendant Raymond ("BI DC Scene Co-Ord (Natl Sec)") and Mary Rezzonico (as "DC Scene Co-Ord (DG L)") That same day, Ms. Rezzonico notified the defendant Mary Sue Hubbard that Mr. Meisner had escaped. Ms. Rezzonico speculated that Mr. Meisner had become concerned about additional fugitive from justice charges. She stated that the defendant Willardson had agreed to have all those individuals in Washington, D.C. who might be affected by Mr. Meisner's appearance briefed

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203/ Government Exhibit No. 175 was seized by Special Agent Aldrich from the defendant Willardson's office at the Cedars Complex. Handwriting expert James Miller concludes that it is "probable" that the signature "Greg" is in the handwriting of the defendant Willardson. Mr. Meisner identifies that signature as being in the handwriting of the defendant Willardson.

on what to do if he should return there. She also stated that the defendant Heldt ("DG US") had "suggested the possibility of creating some confusion with some phone calls and a false arrest set-up -- leading the government to believe . . . that Patsy [Mr. Meisner's wife] would be meeting her ex-husband at some clandestined [sic] meeting -- then have her and Greg Taylor [another Guardian's Office official who resembled Mr. Meisner] meet." Thus, the FBI would, presumably, arrest the wrong person. (Government Exhibits Nos. 176 and 177). 204/

In a letter also dated 20 June, the defendant Willardson ordered the defendant Raymond and Mr. Brian Andrus to "[c]ontinue to fully work out Herb's [Meisner's] cover story per the program eventualities so that we are prepared". (Government Exhibit No. 178). 205/ He also directed

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204/ Government Exhibits Nos. 176 and 177 are identical. However, they were seized by the FBI from two different locations. Government Exhibit No. 176 was seized by Special Agent LeVine from the defendant Heldt's desk at the Fifield Manor; Government Exhibit No. 177 was seized by Special Agent Williams from the desk in Room 15 in the Information Bureau at the Cedars Complex. The latter document was inventoried and initialed by Special Agent Mislock.

205/ Government Exhibit No. 178 was seized by Special Agent Aldrich from a file cabinet in the defendant Willardson's office at the Cedars Complex.



that Mr. Meisner's wife be ordered not to follow her husband's instructions should he contact her. 206/ Furthermore, Guardian's Office personnel were to continue checking all libraries in Los Angeles on the assumption that Mr. Meisner was doing research. The defendant Willardson ordered the removal of all incriminating documents from the Guardian's Office and their placement in the "Red Box". (Government Exhibit No. 219.) 207/

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206/ Brian Andrus, in a letter dated 22 June 1977, informed the defendant Willardson that he had contacted Mr. Meisner's wife on June 21 and briefed her about her husband's unauthorized departure from his apartment. She was ordered to notify Andrus immediately upon being contacted by Mr. Meisner. She was directed "not to take any instructions from him, but to simply ack[nowledge] him and contact me." See Government Exhibit No. 182 seized by Special Agent Williams from a desk in Room 15 of the Information Bureau at the Cedars Complex. It was inventoried and initialed by Special Agent Mislock.

207/ Government Exhibit No. 219 is the directive regarding "Red Box". It orders that "[a]ll the Red Box material from your areas must be centrally located, together in a movable container (ideally a briefcase), locked, and marked." Appended to that document is the "Red Box Data Information Sheet" which defines "what is Red Box Data?" Under that definition "Red Box" includes:

(footnote continued on next page.)

In a letter dated June 21, 1977, the defendant Mary Sue Hubbard explained to Ms. Mary Rezzonico that she believed Mr. Meisner's escape had resulted from a refusal on his part to recognize the need to plead guilty on the fugitive from justice charge. She felt that that charge, with its five years and/or \$5,000 fine was too heavy for Mr. Meisner to bear. She speculated that Mr. Meisner had probably gone somewhere where he could do legal research to prepare his case. However, she concluded that she did not think that he would remain in the Los Angeles area but that he was more likely to go to San Francisco, and possibly Berkeley. (Government Exhibit

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(footnote continued from preceding page.)

- a) Proof that a Scnist is involved in criminal activities.
- b) Anything illegal that implicates MSH, LRH.
- c) Large amount of non-FOI docs.
- d) Operations against any government group or persons.
- e) All operations that contain illegal activities.
- f) Evidence of incriminating activities.
- g) Names and details of confidential financial accts.

Government Exhibit No. 219 was seized by Special Agent Aldrich from the defendant Willardson's office at the Cedars Complex.



No. 179 at p. 2.) 208/

Following her receipt of the defendant Hubbard's letter, Ms. Rezzonico notified "DG I US", the defendant Willardson, and "B-I CO-ORD US", the defendant Raymond, as well as "NAT'L CASE OFF (SEUS SEC)" Brian Andrus of the defendant Hubbard's directive. 209/ That same day, the defendant Willardson notified Ms. Rezzonico in her capacity as "DC Scene Co-Ord[inator]" that the CSG, defendant Mary Sue Hubbard, had ordered that the Information Bureau "not waste resources" looking for Mr. Meisner since he might be anywhere. The defendant Willardson also notified Mr. Mo Budlong by telex that Mr. Meisner had "blown again" and that "no real avenues

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208/ Government Exhibit No. 179 was seized by Special Agent Aldrich from a file cabinet in the defendant Willardson's office in the Cedars Complex. Handwriting expert James Miller positively concludes that the signature on that letter was written by the defendant Hubbard.

209/ Handwriting expert James Miller concludes positively that the notation on the lower part of that letter "Mary, Could you please clarify this? GW" was written by the defendant Willardson. Mr. Meisner identifies the four-line notation signed "M" as having been written by Ms. Rezzonico.

[were] open to locate [him]." He told him that Mr. Meisner's apartment was "cleaned out and wiped down", and that "all his GO associates [were] to be briefed". He states that a "[p]lan [was] in the works to remove sensitive GO data shud [sic] it become necessary in future". (Government Exhibit No. 180). 210/ In a 22 June 1977 letter, the defendant Raymond updated the information which the defendant Willardson had telexed to Mr. Budlong. She informed him that "[w]e are working on a plan to create another false arrest scene type of action along ops [operations] lines", to sidetrack the ongoing Grand Jury investigation in the District of Columbia. (Government Exhibit No. 181.) 211/

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210/ Handwriting expert James Miller concludes that he is "positive" that the entire telex was written by the defendant Willardson. He also identifies the initials and letters "OK'd" next to the title "DG US" on the envelope appended to the telex as probably in the handwriting of the defendant Heldt. Mr. Meisner identifies the initials and letters as having been written by the defendant Heldt. Government Exhibit No. 180 was seized by Special Agent Aldrich from a file cabinet in the defendant Willardson's office in the Cedars Complex.

211/ Government Exhibit No. 181 was seized by Special Agent Williams from a desk in Room 15 of the Information Bureau at the Cedars Complex. It was inventoried and initialed by Special Agent Mislock.



On June 21, the defendant Mary Sue Hubbard instructed the defendant Willardson not to "waste time or resources" searching for Mr. Meisner in the Los Angeles area. She stated that she believed that he was more likely to be in a large city or community such as San Francisco or Berkeley where there were good libraries available. She further informed the defendant Willardson that she had already instructed Ms. Rezzonico to prepare a program to handle the present situation. The next day, the defendant Willardson agreed with the defendant Hubbard that Mr. Meisner was "probably on the west coast somewhere" and that there were "too many possibilities to make a check worthwhile." He pointed out that the Information Bureau's checks of the local libraries in Los Angeles had been negative. (Government Exhibit No. 183.) 212/ All the

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212/ Handwriting expert James Miller concludes that he is "positive" that the signature "Mary Sue" on the June 21 letter was written by the defendant Hubbard. He also states that it is "probable" that the signature "Greg" on the June 22 letter was written by the defendant Willardson. Mr. Meisner identifies both signatures as those of the defendants Hubbard and Willardson respectively. Government Exhibit No. 183 was seized by Special Agent Aldrich from a file cabinet in the defendant Willardson's office at the Cedars Complex.

defendants and officials of the Guardian's Office firmly believed that Mr. Meisner was still a devoted member of the Guardian's Office had not surrendered to the federal authorities.

On June 29 the defendant Willardson informed Ms. Rezzonico that he had met with the defendant Raymond and Mr. Andrus to "iron out some bugs on Herb's [Meisner's] story". He indicated that he had directed Mr. Andrus and the defendant Raymond to continue to work over the next few days on the "basic story". He expressed concern that Mr. Meisner had not called the Guardian's Office since his escape on June 20, and felt that the situation "could potentially leave us open to crossing up stories or facts to both Herb's and our detriment." He concluded, however, that he was convinced that Mr. Meisner had not surrendered to the authorities and was still with the Guardian's Office. (Government Exhibit No. 184.) 213/ On that same day the defendant Willardson

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213/ Government Exhibit No. 184 was seized by Special Agent Aldrich from a file cabinet in defendant Willardson's office of the Cedars Complex.



notified the defendant Heldt that he had "just got word from Herb." The defendant Willardson had just been informed that Mr. Andrus had received a letter from Mr. Meisner postmarked San Francisco. The letter which had been sent by Mr. Meisner after his surrender to the federal authorities and after the United States Attorney's Office for the District of Columbia had decided to obtain a search warrant for Guardian's Office premises, stated:

Brian -

I know you don't understand what's going on, but I still need time to myself. I'm making enough money to get by on so there's no problems.

I'll be in touch in a couple of weeks.

Herb.

(Government Exhibit No. 185 at p. 4.) 214/

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214/ Government Exhibit No. 185 was seized by Special Agent LeVine in the defendant Heldt's desk at the Fifield Manor. Mr. Meisner identifies the signature on that letter as having been written by the defendant Willardson.

The defendant Willardson concluded that "as CSG [the defendant Hubbard] predicted" Mr. Meisner had been doing legal research in the San Francisco area. He suggested that the Guardian's Office send a "missionaire" to "scout the legal libraries and perhaps law schools to locate him [Mr. Meisner]." A copy of this letter was sent to the "CSG", defendant Mary Sue Hubbard, National Secretary, the defendant Raymond, and Southeast Secretary, Brian Andrus.

The defendant Hubbard, in a handwritten letter dated July 3, told the defendant Heldt:

I frankly wld [would] not waste BurI resources looking for him [Mr. Meisner], but wld instead utilize resources to figure out a way to defuse him shld [should] he turn traitor.

(Government Exhibit No. 185 at p. 3.) 215/ The defendant Heldt immediately notified the defendant Willardson of the defendant Hubbard's directive not to look for Mr. Meisner.

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215/ Handwriting expert James Miller states that he is "positive" that the bulk of the letter was written by the defendant Hubbard.



He instructed him to "produce a plan or plans in report form early this week" to carry out the defendant Hubbard's directive.

(Government Exhibit No. 185 p. 2.) 216/

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216/ Handwriting expert Miller is "positive" that the entire letter was written by the defendant Heldt. Additionally, Mr. Miller finds that the envelope on page one of the series of letters was handwritten by the defendant Hubbard ("To: DG US, Frm: CSG").

The above 282-page Stipulation of Evidence is accepted by the United States of America, the defendants, and their attorneys, as the uncontested evidence of the United States in the instant case.

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United States Attorney

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Counsel for Defendants  
Richard Weigand



\_\_\_\_\_  
RICHARD WEIGAND  
Defendant

\_\_\_\_\_  
GREGORY WILLARDSON  
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CINDY RAYMOND  
Defendant

\_\_\_\_\_  
MITCHELL HERMANN  
Defendant

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Counsel for Defendant  
Gerald Bennett Wolfe

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GERALD BENNETT WOLFE  
Defendant

\_\_\_\_\_  
LEONARD J. KOENICK  
Counsel for Defendant  
Sharon Thomas

\_\_\_\_\_  
SHARON THOMAS  
Defendant

Accepted by the Court this \_\_\_\_ day of  
October, 1979.

\_\_\_\_\_  
CHARLES R. RICHEY  
UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA :

v. :

Criminal No. 78-401(2)&(3)

JANE KEMBER :

MORRIS BUDLONG :

a/k/a MO BUD LONG :

(67)

SENTENCING MEMORANDUM OF THE UNITED STATES OF AMERICA

The United States of America respectfully submits this Sentencing Memorandum to aid the Court in imposing sentence in this case.

I.

Introduction

The defendants, Jane Kember and Morris Budlong, were each found guilty, following a jury trial, of nine counts of aiding and abetting burglary in the second degree. The evidence which led the jury to return these guilty verdicts revealed that during the years 1973 to 1976 the defendants ordered the commission of brazen, systematic and persistent burglaries of United States Government offices. Their purpose was to ransack these offices of all documents of interest to the organization which they led -- the Guardian's Office of the Church of Scientology -- in order to secure total exemption from taxation and to protect Scientology's founder, L. Ron Hubbard. In the process, from their headquarters in East Grinstead, England, they challenged and attempted to undermine the judicial and governmental structure of the United States. They did so by fraudulently using the Freedom of Information Act (FOIA) in a manner never intended by the Congress of the United States.

As this Court heard these defendants set about filing FOIA requests with various Government agencies in order, inter alia, to cause these agencies to gather all the requested documents in a central repository for the review process mandated by the FOIA. Once the Guardian's Office discovered where these documents were located, they began a systematic pillaging of that office -- repeated



and surreptitiously breaking into that office, taking the documents, photocopying them with Government equipment and supplies, and replacing them in the Government files so that, in the words of defendant Budlong, these thefts would not be uncovered

Notwithstanding the fact that they had obtained illegally all the documents they were seeking, they proceeded to file FOIA suits in the courts of this country, complaining that the particular Government agencies had not given them all the documents to which they were entitled. Thus, they perpetrated a fraud upon the American judicial system. They came into the American courts with unclean hands, seeking documents which they had already obtained by violating the laws of the United States. After abusing the trial courts, they proceeded to abuse the appellate courts never disclosing that they were engaging in litigation in bad faith, totally heedless of the waste of judicial resources involved. Such conduct, which strikes at the very heart of the judicial system, cannot be tolerated.

These defendants additionally ordered the theft of documents and memoranda of attorneys representing the United States Government, a party against whom they had instituted a variety of lawsuits. They did so to discover the attorneys' legal strategy and gain an unfair strategic advantage in the courts. In effect, they violated the attorney-client privilege of every litigant who opposed them, a fact which they seek to obfuscate by complaining in bad faith, that their own attorney-client privileges were violated. Such conduct cannot be permitted in our judicial system.

Once their emissaries were caught in the midst of one of their criminal acts, the defendants orchestrated from England a massive obstruction of the due administration of justice. Such outrageous conduct, which, we submit, this Court can consider under standards recognized by the Supreme Court, strikes at the very heart of our judicial system -- a system which has often, at crucial times in our history, been the savior of our institutions.



Moreover, a review of the documents seized from the two Los Angeles, California, offices of the Guardian's Office -- including log books of messages from these two defendants -- show the incredible and sweeping nature of the criminal conduct of these defendants. Indeed, Guardian Program Order 158, and some of the other orders in evidence, have already provided the Court with a glimpse of this conduct. These crimes included: the infiltration and theft of documents from a number of prominent private, national, and world organizations, law firms, newspapers, and private citizens; the execution of smear campaigns and baseless law suits for the sole purpose of destroying private individuals who had attempted to exercise their First Amendment rights to freedom of expression; the framing of private citizens who had been critical of Scientology, including the forging of documents which led to the indictment of at least one innocent person; and violation of the civil rights of prominent private citizens and public officials. These are but a few of the criminal acts of these two defendants which, we submit, give the Court a glimpse of the heinous and vicious nature of their crimes.

In view of the severity of the crimes of which the defendants Kember and Rudlong were convicted, the high level of their positions in the organizational hierarchy of the Guardian's Office, compared with the positions held by their nine co-defendants who were convicted after a non-jury trial based on an uncontested stipulation of evidence, as well as the additional information which we now bring to this Court's attention, we submit that the public interest demands the imposition of substantial terms of incarceration. This Court must make it clear beyond peradventure that the criminal conduct of these two defendants cannot be countenanced, and that anyone who sets about masterminding and executing the crimes of which they were convicted, uses and then tampers with the judicial



system as they have, will be dealt with in the most severe terms provided by the law.

## II.

### The Law

The right of this Court to consider evidence of other crimes prior to imposing a sentence has long been recognized. It is well settled that before making [a sentencing] determination, a judge may appropriately conduct an inquiry broad in scope, largely unlimited either as to the kind of information he may consider, or the source from which it may come." United States v. Tucker, 404 U.S. 443, 446 (1972). Courts have a duty to obtain as much information as they can about a convicted defendant's background, character, and conduct, criminal or otherwise, so that they can impose a sentence to fit the circumstances of the case and the individual defendant. See United States v. Grayson, 438 U.S. 41 (1978); 18 U.S.C. § 3577 (1976). Thus, hearsay assertions are admissible, Williams v. Oklahoma, 358 U.S. 576 (1959), as is information about prior crimes committed by the defendant, even if the indictments for those crimes are pending, United States v. Metz, 470 F.2d 1140 (3d Cir. 1972), cert. denied, 411 U.S. 919 (1973); or the defendant was never tried for the other crimes, Williams v. New York, 337 U.S. 241, 244 (1949); or the charges were dismissed without an adjudication on the merits, United States v. Doyle, 348 F.2d 715 (2d Cir.), cert. denied, 382 U.S. 843 (1965); United States v. Needles, 472 F.2d 652, 655 (2d Cir. 1973); or the defendant otherwise avoided conviction. United States v. Jones, 113 U.S. App. D.C. 233, 307 F.2d 190 (1962), cert. denied, 372 U.S. 919 (1963); United States v. Cifarelli, 401 F.2d 512, 514 (2d Cir.), cert. denied, 393 U.S. 987 (1968). Even facts developed in prosecutions where the defendant was acquitted can be considered by the sentencing judge. United States v. Meigs, 451 F.2d 181 (2d Cir. 1972).

In addition, the Court can consider all the circumstances surrounding a defendant's conviction for the present crime. A court is also warranted in increasing the sentence when it believes that the defendant has undermined the judicial system through repeated perjury. United States v. Grayson, supra.

III.

The Charges on Which the Defendants Were  
Convicted and the Continuation of the Burg-  
laries after Meisner and Wolfe Were Caught.

Each of the two defendants now before the Court were found guilty of nine counts of aiding and abetting second degree burglaries of government offices at the Internal Revenue Service, the Department of Justice and the office of an Assistant United States Attorney in this very courthouse. The evidence at their trial proved beyond any doubt that the defendants not only commanded and directed these burglaries but also received the fruits of the burglaries -- copies of the stolen Government documents -- and that they commended and rewarded their subordinates for their success in these criminal endeavors. Based on this overwhelming evidence, with which this Court is intimately familiar, a jury returned unanimous verdicts of guilty against both defendants.

The evidence further shows, however, that the defendants did not stop their elaborate schemes on June 11, 1976 when they were informed that Michael Meisner and Gerald Bennett Wolfe had been confronted by the Federal Bureau of Investigations in this very courthouse during one of their attempted burglaries. Indeed, to the contrary, the evidence overwhelmingly demonstrates that the defendants continued to issue Guardian Orders and directives commanding crimes identical to those for which they have been convicted. We submit that such evidence is probative at a sentencing because it brings into focus more than anything else the refusal by the defendants to live by the law -- their apparently intractable



conviction that they are somehow above the law. This is illustrated by Mrs. Hubbard's statement on the witness stand that she and her codefendants, including these two defendants, felt they could do to others whatever they perceived, however erroneously, others were doing to them. Thus, they created the "Intelligence" or "Information" Bureau because they decided they had no use for the lawful remedies provided by our legal system. See e.g.: <sup>W-20472</sup> Government Exhibit No. 2 a. trial. Such behavior, we submit, cannot be tolerated in any civilized society.

The following is a sampling of a few of the directives and orders which show that the defendants continued their illegal activities beyond June 1976:

Date and Exhibit

Order or Communication

31 July 1976  
(Gov't Exh. No. 109)  
(Exh. No. 1 hereto)

Compliance Report Re: Guardian Program Order 302 Operating Target 5. This is a list of priorities for penetration of Government agencies. Among agencies targeted for penetration: CIA, FBI, Defense Communications Agency, Federal Protective Service, Federal Bureau of Prisons, Office of the President and Vice President of the United States, the United States Senate, and the Administrative Office of the U.S. Courts.

15 October 1976  
(Gov't Exh. No. 107)  
(Exh. No. 2 hereto)

Defendant Budlong to Richard Weigand: "Attached is a project which can be utilized to debug and accomplish any infiltrating target you may have trouble with in your area." Budlong demands that "[e]ach time it is implemented . . . B 1 WW is to be notified." The attached project is called WEAVER. NEEDLE. Major Target: "To successfully infiltrate (name of agency or organization) to locate and obtain their files on the C of S."

27 May 1977  
(Gov't Exh. No. 111)  
(Exh. No. 3 hereto)

Defendant Jane Kember reissues Guardian Program Order 158 as GP3MO 158 R (Reissue). While tracking the previous order of 5 December 1975 it re-fines it and changes some of the targets. Defendant Budlong's title appears immediately before Kember's name at the end of the order, indicating he approved the order.



3 June 1977  
(Gov't Exh. No. 112)  
(Exh. No. 4 hereto)

U.S. Secretary W.W. Hermann Brendel in a communication sent to defendants Kember and Budlong also lists priorities for B 1 U.S., including obtaining all U.S. Government files, and U.S. District Attorney, Los Angeles, files. It lists various operations against private individuals and organizations and state agencies including getting:  
(1) Susan Mondale "checked out;"  
(2) "Time-Life Books discredited."

Additionally, based upon the correspondence between the defendant Jane Kember and Deputy Guardian U.S. Henning Heldt, there is no question but that the defendant Kember directed, encouraged, and personally monitored the Guardian's Office attempt to attack and destroy Assistant United States Attorney Nathan Dodell. Indeed on June 6, 1976, defendant Kember wrote to Heldt: "Have we ever done a really thorough B1 investigation of Dodell? . . . let me know what B1 found on him . . . want the intell[igence] actions looked over." That directive was complied with on 29 June 1976. See Exh. No. 6 hereto. Then on June 9, 1976 defendant Kember telexed former co-defendant Heldt: "Re: Justice Dodell attack strategy & yr desp[atch] 4 June. I consider that yr actions are excellent and that you are holding the line beautifully. V[ery] W[ell] D[one] and let me know how it goes." She was given the information on 29 June 1976. See Exh. No. 7 hereto.

We submit that a mere sampling of the orders and communications emanating from these defendants indicates their heavy involvement not only in the criminal activities for which they were convicted but also in identical criminal activities for at least the year following the FBI's confrontation with Meisner and Wolfe in this courthouse. Such a pervasive pattern of conduct would indicate

1/ While Kember and Budlong claim that the burglaries were carried out solely to remove "false reports" from Government files, the documents show otherwise. In fact, one of the programs of the Guardian's Office called for the deliberate planting of false reports in Government files. In a World Wide project issued 16 September 1975 by  
(continued on next page)



that the only reason our proof of these criminal ventures ends in June 1977 is that the searches took place on July 8, 1977. One can only speculate as to whether these illegal activities were ever terminated by these defendants.

(1/ continued from preceding page)

aide David Gaiman, Deputy Managing for Public Relations World-Wide, an operation is ordered to plant false information in U.S. Security agency computers, "to hold up the American security to ridicule, as outlined in the GO by [REDACTED] describes the plan as "to take a cat with a pedigree name . . . and to get the name into a computer file, together with a record whether it be criminal, social welfare, driving or whatever; and to build the sequence of events to the point where the creature holds a press conference and photographic story results." The project called for the use of plants to place the false information into U.S. security agency computers. See Exh. No. 5 hereto.

IV.

The Obstruction of Justice

The seized documents demonstrate beyond peradventure that the two defendants before the Court for sentencing, Jane Kember and Morris Budlong, from their secure haven in East Grinstead, England, orchestrated a massive cover-up, obstructing the administration of justice in the United States. They suppressed and fabricated evidence to be presented to investigating authorities and the grand jury in order to insulate themselves and Scientology from liability for the crimes which they had ordered and committed, including the nine burglaries of which they now stand convicted. In so doing, they committed crimes ranging from harboring a fugitive to suborning perjury. Not only did they commit these crimes against the American judicial system, but they did so with impunity. Examples from a few of the seized documents provide a flavor of the brazenness and inglemindedness with which these two defendants set about obstructing the American judicial system. We submit that this Court not only can, but indeed should, consider this evidence in assessing the culpability of these defendants and the likelihood of their rehabilitation, or lack of such likelihood.

A. As to Jane Kember, the following are summaries of but a few of her communications which show her clearly at the helm of the conspiracy to obstruct justice:

Date and Exhibit

Communication

June 25, 1976  
G&W Log Book,  
p. 141 (Exh. No.  
8, hereto)

Jane Kember sends telex to Henning Heldt:  
"Re: Guardian's Office D.C.,  
Evaluation. Leave Herbert [Meisner]  
where he is. If Patsy [Meisner]  
not OK work out other solution."  
[Complied to November 18, 1976].

October 29, 1976  
G&W Log Book,  
p. 149 (Exh. No.

Jane Kember sends telex to Henning Heldt:  
"Henning. I am totally overrun



9 hereto)

10

November 1, 1976  
GWW Log Book,  
p. 150 (Exh. No. 10  
hereto)

November 1, 1976  
GW-Log Book,  
p. 151 (Exh. No.  
11 hereto)

November 12, 1976,  
GWW Log Book,  
p. 155 Exh. No.  
12 hereto)

January 11, 1977,  
GWW Log Book,  
p. 162 Exh. No.  
13 hereto)

April 20, 1977,  
Exh. No. 14  
hereto)

on not getting vital data from BI  
lines. I want the following data  
in full. Re: MM [Mike Meisner] and  
your Boffin eval which has not even  
been received at WW. Are you having  
trouble with MM [Meisner] and why?  
I want full report and precise  
details. What are the possibilities  
of a Grand Jury investigation? I  
want full details. Why does the CSG  
[Mary Sue Hubbard] ordered time sche-  
dule have to be altered to await the  
outcome of the Silver [Wolfe] trial.  
If MM pleaded guilty could he then  
just say nothing or appear to be  
type 3 [crazy]? Will you please get  
me a full report on this whole scene  
without any justifications as to  
security being the reason for with-  
hold of vital data. Much love, Jane."

Jane Kember sends telex to Henning  
Heldt:  
"Problems appear to be with MM [Meis-  
ner] (1) Overts [thoughts against  
Scientology] been pulled [i.e.,  
drawn out of him in an auditing  
session]?; (2) Is he producing? (3)  
Anyone explained that coopera-  
tion out of the question; (4) any-  
one explained why we want Silver's  
case handled first?; and (5) anyone  
explained he will not open his mouth?  
..."

Jane Kember to Henning Heldt:  
D.C. MM [Meisner] Mess. Please  
get BI data up the line fast and  
also data on urgent situations."

Jane Kember to Henning Heldt:  
"Re: Herbert [Meisner]. That  
sounds much better. Please let  
me know when his overts have been  
pulled." [See Exh. No. 10, supra].

Jane Kember to Henning Heldt:  
"Henning, Please send me a list of  
all the people who know about the  
M [Meisner] cycle. Then please  
report on how you are getting eyes  
only actually being duplicated and  
all extraneous people off, repeat  
off, the lines. Much love, Jane."

Handwritten letter from Jane Kember  
to Henning Heldt:  
[Jane Kember sets out in detail the  
present plans for the cover-up, and  
asks what is causing the delay in  
completion of the cover-up. She  
concludes: "Please write a detailed

report which actually answers these  
questions . . .").

B. As to Morris Budlong, the seized documents clearly show that every detail of the cover up had to receive his specific approval. For example:

Date and Exhibit

September 28, 1976  
(Exh. No. 15  
hereto)

November 2, 1976  
(Exh. No. 16  
hereto)

December 1, 1976  
(Exh. No. 17  
hereto)

January 24, 1977  
(Exh. No. 18  
hereto)

Communication

from Mo Budlong to Dick Weigand, DGIUS,  
cc: to Jane Kember:

Sets forth plan for harboring Meisner as a fugitive (change his identity, go into hiding) and obstructing justice by having Wolfe plead guilty, giving no details of the reason for being in the courthouse. Concludes: "If any of the above is not clear, please ask immediately. I don't want any confusions on what has to be done."

Mo Budlong sends telex to Greg Willardson, DGIUS, criticizing the Information Bureau for handling the obstruction of justice by itself without help from the Legal Bureau. Concludes:

Rectify this immediately. BI handles security and keeps M [Meisner] and Silver [Wolfe] cheered up. Legal handles the cases and Legal handling. You will wrap all of it round a telegraph pole if you continue this way. Send full explanation by telex, love, Mo.

Mo Budlong, cc: to Jane Kember, from Mitchell Herman:

sets out details on how the obstruction of justice is being handled in the United States Guardian's Office. Concludes by telling Mo Budlong that the overall cover story for Meisner and Wolfe is being prepared for his final approval.

Telex to Mo Budlong from Dick Weigand, DGIUS:

Re: Silver [Wolfe]: Justice going for Grand Jury on Silver matter this month. Also Justice wants to talk with Silver. Plan is to stall Grand Jury by Silver promise of talk in end of January. Handling is to get Silver briefed and drilled at US by BI and Legal to give Justice admission of guilt and back-up story if needed from Herbert [Meisner] currently at WW, specifically Tgt. 4. Need your ok on use of Tgt. 4 to proceed.



12

Intention is with Silver drilled and briefed he can get Justice to drop Grand Jury. Grand Jury not wanted as Silver could be given immunity then made to give data as to his Amendment rights after immunity. Data from him could be used to get us or Herb [Meisner] or even use against Silver if proved false. Can I get your telex OK or not OK on Tgt. 4 so as to proceed. Love, DGIUS. . . .

January 24, 1977  
(Exh. No. 19 hereto)

In reply to the above, Mo Budlong sends telex to Dick Weigand, DGIUS:

"Target 4 on my copy is to brief Silver on story. This is OK but DGLW requires more data on grand jury's powers and has asked DGIUS for same [A] If Silver [Wolfe] states that he will plead guilty will Grand Jury proceed? [B] Is Grand Jury going for indictment on Silver or Murphy? [C] If Silver is to plead guilty, why does he need a story? [D] Also per plan, if Murphy [Meisner] is to plead guilty, why does he need a story? Surely sequence is he is arrested, goes to trial, pleads guilty and is sentenced. Much love, MO."

January 24, 1977  
(Exh. No. 20 hereto)

In reply to the above, Dick Weigand telexes Mo Budlong:

"Re: Silver [Wolfe]. Reply to your Q's: (A) If Silver pleads guilty, matter should not go to Grand Jury. This needs to be verified by Legal. (B) Grand Jury is for Silver. (C) Story for following: United States Attorney's Office District of Columbia has theory that Silver and Herb [Meisner] after documents for Church. They want to determine what Silver was up to and what drop charges if they determine theory not true. A meeting with them was set up to their request to go over this. Silver story for meeting. Purpose twofold: to provide time for Legal to research and to see if U.S. Attorney's Office can be convinced to drop charges. Silver attorney predicts Silver will be charged with impersonation and forgery of I.D. and trespass. Silver has acknowledged doing this. Difficulties would come if he were also charged with conspiracy and Grand Jury was used to try to develop this charge aimed at Church. (D) Murphy [Meisner] story would be needed for same sit. . . .

May 3, 1977  
(Exh. No. 21 hereto)

To Mo Budlong from DGIUS, Dick Weigand and Greg Willardson, DGIUS; reports on handling of Meisner due to his lack of cooperation:

"We went back to BI and organized a crew of guys to handle the worst eventualities

B

by force if necessary (i.e., gag, handcuffs, etc.)"

"We eventually got to [Meisner's] at about 2:15 a.m., 30 April, and Dick, Brian (SE Sec) and I went in to see [Meisner] first with the three guards . . . Herbert was quite upset about the guards initially . . . [H]e was not going to allow guards staying with him. He then threatened that then he would have to leave even if he had to make a scene, including involving the police . . . ."

"At times throughout the above conversations the guards and I were searching through his belongings removing any material connected with the Church or his notes on the scene, and safeguarding dangerous implements like knives, razors, etc. . . . ."

"We then left at about 6-6:30 a.m. with the guards in charge."

To Mo Budlong from DGIUS, Dick Weigand:

". . . The guards stayed with [Meisner] and are with him now."

"Then on Saturday and Sunday I had people continue to look for a better place to take him. Sunday a place was found and Brian and the guards tried to move him. He refused and said he would pull in all sorts of trouble if we tried to get him out the door. He was physically removed from the building, and taken to the new place where he is still under constant watch. His auditing will hopefully be started today as the auditor is getting handled today . . . ."

Letter (CSW) from DGIUS to Mo Budlong containing handwritten approval by Budlong: DGIUS proposes a slight change in the cover story to be used by Meisner when he turns himself in after a year as a fugitive. He is to claim that he found out he was wanted by calling his wife, instead of by calling Wolfe, as was originally the story. Mo approves the change in the cover story on June 15, 1977, writing: "This change is fine. Love, Mo B"

To Mo Budlong, cc: to Jane Kember, from Cindy Raymond:  
Mo (and Jane) are informed attached that Meisner has escaped and that B-1 is developing programs, inter alia, to provide a cover for "his turning."

May 2, 1977  
(Exh. No. 22 hereto)

June 7, 1977  
(Exh. 23 hereto)

June 22, 1977  
(Exh. No. 24 hereto)



14 Thus, as the evidence shows, these defendants orchestrated an elaborate cover-up, beginning in June 1976 and continuing through June 1977 and, no doubt, thereafter. In fact, a significant part of the defense they presented at trial -- their attack on the integrity and reliability of Michael Meisner -- was foreshadowed in the "obstruction documents." They presented this Court with a shabby attempt at impeaching Meisner's credibility by claiming that he stole money from the Church -- the same false claim they made against another former Scientologist who had the courage to expose their crimes and thus fell victim to their fair game doctrine. Allard v. Church of Scientology of California, 58 Cal. App. 3d 439, 129 Cal. Rptr. 797 (Ct. App. 1976), cert. denied, 97 S. Ct. 1101 (1977).

It is the two defendants before the Court for sentencing who, along with their already convicted and sentenced cohort Mary Sue Hubbard, bear the greatest degree of responsibility for the massive conspiracy to obstruct justice which they jointly directed. While the others already convicted of that offense (Henning Feldt, Duke Snider, Gregory Willardson, Richard Weigand, Cindy Raymond, and Gerald Bennett Wolfe) indeed deserved the punishment they received, they acted under direct orders of Jane Kember and Morris Budlong, a factor appropriate for consideration by this Court in assessing the relative severity of the sentences that the defendants Kember and Budlong should receive.

Other Crimes Committed by These Defendants

The defendants' contention that they committed the crimes of which they stand convicted in order to protect their Church from Government harassment collapses when one reviews a sample of the remaining documents seized by the FBI during the execution of the two Los Angeles search warrants. If anything, these documents establish beyond question that the defendants, their convicted co-defendants, and their unindicted co-conspirators, as well as their organization, considered themselves above the law. They believed that they had carte blanche to violate the rights of others, frame critics in order to destroy them, burglarize private and public offices and steal documents outlining the strategy of individuals and organizations that the Church had sued. These suits were filed by the Church for the sole purpose of financially bankrupting its critics and in order to create an atmosphere of fear so that critics would shy away from exercising the First Amendment rights secured them by the Constitution.<sup>27</sup> The defendants and their cohorts launched vicious smear campaigns, spreading falsehoods against those they perceived to be enemies of Scientology in order to discredit them and, in some instances, to cause them to lose their employment. Their targets included, among others, the American Medical Association (AMA), which had branded Scientology's practice of "dianetics" as "quackery"; the Better Business Bureau (BBB), which sought to

<sup>27</sup> This is precisely how Scientology's critics viewed Scientology's activities. Newsweek, November 20, 1978 at 133: "The Church of Scientology relies on suits and petty harassment to register its complaints. In August, the Scientologists slapped a \$1 million suit on the Los Angeles Times after it ran a series about the Church. The Times wasn't accused of libel; rather, the Scientologists claimed that the paper conspired with the FBI and Justice Department to violate the church's civil rights by poisoning the atmosphere before a trial" of the nine convicted co-defendants. See also discussion, infra, regarding Scientology's lawsuits against its perceived "enemy", Paulette Cooper.



respond to private citizens' inquiries about the courses offered by Scientology, newspapers which merely sought to report the news and inform the public, law firms which represented individuals and organizations against whom Scientology initiated law suits (often for the sole purpose of harassment); private citizens who attempted to exercise their First Amendment rights to criticize an organization whose tactics they condemned; and public officials who sought to carry out the duties for which they were elected or appointed in a fair and even-handed manner. To these defendants and their associates, however, anyone who did not agree with them was considered to be an enemy against whom the so-called "fair game doctrine" could be invoked. Allard v. Church of Scientology of California, supra. That doctrine provides that anyone perceived to be an enemy of Scientology or a "suppressive person," "[m]ay be deprived of property or injured by any means by any Scientologist without any discipline of the Scientologist. [He m]ay be tricked, sued or lied to or destroyed." Id., 58 Cal. App. 3d at 443 n.1, 129 Cal. Rptr. at 800 n.1.<sup>3/</sup> This policy, together with the actions of these defendants who represent the very top leadership of the Church of Scientology, bring into question their claim that their Church prohibited the commission of illegal acts.

The United States submits that the activities outlined in this section show the scope, breadth and severity of the crimes committed

<sup>3/</sup> This led the California Court of Appeals to state that "Any party whose tenets include lying and cheating in order to attack its 'enemies' deserves the results of the risk which such conduct entails." Id., 58 Cal. App. 3d at 452, 129 Cal. Rptr. at 805.

Defendants, through one of their attorneys, have stated that the fair game policy continued in effect well after the indictment in this case and the conviction of the first nine co-defendants. Defendants claim that the policy was abrogated by the Church's Board of Directors in late July or early August, 1980, only after the defendants' personal attack on Judge Richey. Transcript of September 5, 1980, at 14.

were minutes of meetings between the AMA and the National Medical Association; memoranda of discussions with the federal Department of Health, Education and Welfare; and memoranda regarding the Joint Commission on the Accreditation of Hospitals (JCAH) and the Coordinating Committee on Health Information (CCHI).

Another covert operative was placed in the Chicago headquarters of the AMA in order to obtain all documents on the CCHI. That agent, Sherry Hermann, a/k/a Sherry Canavaro, a/k/a Sandy Cooper, obtained all these documents and relayed them to her husband, co-defendant Mitchell Hermann who was her case agent. (Exhibit No. 26 hereto.)

In the Spring of 1975, Mr. Meisner received an order to covertly leak to the press the numerous AMA documents which had been obtained in the District of Columbia and Chicago. That action was intended to provoke investigations of the AMA's tax exempt status by Congressional Committees, the IRS, and the Federal Trade Commission. Pursuant to these directives, Mr. Meisner was to anonymously contact reporters and send them copies of these stolen documents. Newspapers subsequently referred to that anonymous source as "Sore Throat."

Defendants Kember and Bullong were kept constantly apprised of the operations concerning the AMA, and indeed encouraged these activities. Thus, for example, on October 16, 1975, Jane Kember told Henning Heldt, in response to a report of his on October 7, 1975: "AMA: SORE THROAT . . . Let me know how this goes." GWW Log, p. 101, Exh. No. 27 hereto. And again on October 21, 1975, defendant Kember telexed to Heldt the cover story to be used by AMA infiltrators, if caught:

Henning Re: Sore Throat . . . David [Gaiman .

4/ (continued from preceding page)

the AMA D.C." Co-defendant Raymond discussed the placement of Jodie Gumpert as a second covert agent at the AMA in the District of Columbia, her detection by the AMA, and her subsequent infiltration of the Clearwater Chamber of Commerce.



DGPRWW has laid down a strategy which is to enable us to contain the scene. Our plants when trapped are Free on investigative reporters just like any other newspaper. The plants themselves do not have to confess or be named. . . . We can undercut AMA's continual effort to expose us by indicating it is a smokescreen to prevent Freedom from publishing. . . . ML, Jane

GW Log, p. 101, Exh. No. 27 hereto. Likewise, on October 7, 1975, defendant Budlong telexed Weigand, DGIUS:

Dick, Sore Throat is an Intelligence matter. Nothing in your data indicates a situation requiring other Bureau assistance. Send full data on the scene before you hand Sore Throat matter over to anyone else. Love, Mo

DGIWW Log, p. 27, Exh. 27-A hereto.

#### Better Business Bureau

The infiltration of the Council of Better Business Bureaus (CBBB) began on December 4, 1972, with the placement of Sherry Canavaro (later Sherry Herman, a/k/a Sandy Cooper) as a covert agent within that organization. (Document No. 16727.) Defendants Kember and Budlong were informed of Scientology's covert operations within the CBBB and prospects that the covert agent might become the CBBB's representative to the CCHI (Coordinating Conference on Health Information). (Exhibit No. 28 hereto).<sup>5/</sup>

#### Mental Health Organizations

Guardian Order 121569 MSH (1) issued on December 15, 1969, directed the infiltration of all mental health organizations both nationally and world-wide. Exhibit No. 29 hereto. This Guardian Order was carried out on a number of fronts by operatives of the Information Bureau headed by defendant Budlong. Thus local mental

<sup>5/</sup> One of the functions of the CCHI was to coordinate efforts against groups believed to promote quackery. The defendants were successful in having their covert operative become the CBBB's representative to two CCHI meetings, one of which she was able to tape.

health organizations were infiltrated by covert operatives in Las Vegas and St. Louis. Indeed, the Assistant Guardian for Information in Las Vegas reported that, "everything possible was done to collect this data, everything from infiltration to stealing to eavesdropping, etc. . . ." (Document No. 1333..)

Co-Defendant Sharon Thomas was recruited as a covert operative in 1973 in the District of Columbia by co-defendant Snider, the Assistant Guardian. She was later assigned to infiltrate the American Psychiatric Association (APA). Beginning in January 1974, co-defendant Hermann supervised co-defendant Thomas' APA thefts. While in the APA, co-defendant Thomas stole documents regarding Scientology as well as confidential files of the APA's Ethics Committee concerning complaints against psychiatrists. (Document Nos. 8804 and 8805.) These stolen documents were sent to defendant Budlong.

Moreover, Guardian Program Order 1238 (Exhibit No. 30 hereto), issued by the defendant Kember and approved by the defendant Budlong, had as its "major target:"

To obtain the information necessary to take over the control of NIMH [National Institute of Mental Health] while at the same time establishing the lines and resources to be used in taking over NIMH.

Also included in that program were the infiltration of the Public Health Service, the Food and Drug Administration, and the Alcohol, Drug Abuse, and Mental Health Administration (ADAMHA).

#### "Anti-Cult" Groups

The Los Angeles-seized documents set out a variety of actions instituted by the defendants and their organization against individuals and groups engaged in so-called "anticult" activities. In February 1977, Jane Kember promulgated Guardian Program Order 1017, entitled "ARM (Anti-Religion Movement) Clean Sweep" (Document No. 13724), which had been approved by defendant Budlong. That Guar-



dian Order called for the placement of "covert agents" for "data collection lines" with anti-cult groups. (Id. at 1.)

B. Law Firms

As part of their criminal activities the defendants actively encouraged burglaries and thefts of documents from private law firms in Washington, D.C., and Los Angeles, California, that represented private organizations sued by Scientology, including the law firm of Arent, Fox, Kintner, Plotkin and Kahn, in D.C.

At least three burglaries were committed during the early months of 1976 at the law offices of Arent, Fox, Kintner, Plotkin and Kahn, who then represented the St. Petersburg Times in a Scientology-initiated law suit. Defendants Kember and Buclong were regularly kept informed of the results. In February and March 1976 three entries were made into the office of Jack Bray and his secretary at the above-mentioned law firm, the first one by Richard Kimmel, the acting Assistant Guardian for Information in the District of Columbia, and the second one by Kimmel and Michael Meisner. On each occasion, documents outlining the law firm's strategy in defending the law suit brought against the St. Petersburg Times were taken. See Exhibit No. 31 hereto, a telex from defendant Luke Snider to the World-Wide Guardian's Office, dated 13 February 1976, setting out information obtained by Kimmel from Mr. Bray's office.

C. Private Individuals And Public Officials:

The defendants directed and encouraged a number of covert operations against private individuals and public officials to destroy and discredit these persons because they had either attempted to exercise their First Amendment rights by criticizing Scientology or by attempting to carry out their duties as public officials.

Paulette Cooper

As early as February 29, 1972, defendant Kember had written the DGIUS (then Terry Milner) directing that he find out information about Paulette Cooper so that she could be "handled" (Exh. No. 32 hereto). Paulette Cooper is the author of The Scandal of Scientology, a work highly critical of Scientology. Kember's interest in handling Cooper continued, and her loyal workers in the United States carried out incredible schemes pursuant to Kember's directive.<sup>6/</sup> In March 1976, Mo Budlong's deputy at World-Wide asked for details on an Operation Dynamite to be carried out against Paulette Cooper. The operation was delegated to the Northeast Information Bureau Secretary, with the directive to Report to WW." (Exh. No. 33, DGIWW log book pp. 72 and 73.) Also in 1976, the highest ranking Scientologists in the United States, including at least six of the co-defendants (Heldt, Snider, Weigand, Willardson, Herrmann, and Raymond), designed a series of plans in furtherance of the directives of co-defendants Kember and Budlong, which had as their goal Paulette Cooper's imprisonment or commitment to a mental institution.

In the Spring of 1976 six separate schemes were devised with the express purpose

"To get P.C. (Paulette Cooper) incarcerated in a mental institution or jail, or at least to hit her so hard that she drops her attacks."

(See Operation Breakout dated 1 April 1976, Exhibit No. 34 hereto; see also Exhibit No. 35.) Their stated purpose was "[t]o remove PC [Paulette Cooper] from her position of Power so that she cannot attack the C[hurch] of S[ci]ntology." The six separate schemes

6/ In addition to Kember's specific directive that Cooper be "handled," Mo Budlong and other World-Wide supervisors were under standing orders to see to it that all attacks on Scientology occurring anywhere in the world were "reported and handled properly, for both CSG [Mary Sue Hubbard] and I will have your heads for breakfast. . . . Love Jane. Order of Jane Kember contained in Information Bureau Hat Box, volume I Exh. No. 37 hereto (emphasis added).



ordered Mr. Meisner to carry out an operation on Mayor Cazares during his Washington trip -- that operation was to involve a fake hit-and-run accident. Sharon Thomas was to be the main participant in that operation. She was to meet Mayor Cazares, drive him around town, and at a predetermined location stage a hit-and-run accident with Mr. Meisner as the "victim."

On March 14, 1976, Thomas offered to show Mayor Cazares the town. During that drive, Thomas, who was driving, staged her fake hit-and-run accident in Rock Creek Park, hitting Michael Meisner. She drove on without reporting the accident to the police. Of course, Thomas knew that no harm had been caused to the "victim." (Exhibit No. 39 hereto). In a report dated March 15, 1976, to defendant Morris Budlong, Weigand apprised Budlong of the incident and discussed how Scientology could use that "fake" accident against Mayor Cazares and concluded that "I should think that the Mayor's political days are at an end." (Id. at 2.)

On June 6, 1976, Jane Kember promulgated Guardian Program Order 398, entitled "Mayor Cazares Handling Project." Its purpose was "to remove Cazares from any position from which he can inhibit the expansion of Scientology" and called for, among other things: (1) carrying "out a covert campaign to create strife between Cazares and the City Commission"; and (2) placing a covert operative in his Congressional campaign organization, getting the operative "as highly placed as possible. Use this operative to collect data on planned activities and feed this to PI and Legal to carry out operations to hamper the effectiveness of the campaign . . . ." (Exhibit No. 40 hereto.) On November 3, 1976, unindicted co-conspirator Joe Lisa informed co-defendant Snider that Mayor Cazares had been defeated in the Congressional race as a result of the implementation of defendant Jane Kember's Guardian Program Order 398, and the other Scientology actions which included "[p]hone calls . . . spreading rumors inside his camp, contributing



to disorganization in his campaign . . . ." (Document No. 1491.)

#### Celebrities

On January 2, 1976, defendant Jane Kember issued Guardian Order 1361-3 which called for the theft of Los Angeles IRS Intelligence files on "celebrities, politicians and big names." In complete disregard for the rights of these individuals, Jane Kember directed that the stolen information be published. (Document No. 11513.) In fact IRS files on former California Governor Edmund Brown, current California Governor Edmund Brown, Jr., Los Angeles Mayor Tom Bradley and his wife and Frank Sinatra were stolen from the IRS' Los Angeles offices and disclosed to the press. (Document Nos. 11514, 1546, and 1548.)

#### D. Newspapers

The defendants and their organization mounted a head-on assault upon newspapers that had been critical of Scientology. They infiltrated newspapers and, in other instances, without disclosing that they were associated with Scientology, planted stories of interest to their organization. For the sake of brevity, we will cite just one example.

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3/ These are but four examples of the numerous operations conducted against private citizens and public officials. A review of the documents seized in Los Angeles shows the incredible scope of these operations.

In fact, in order to help determine what individuals and groups to develop operations against, the files of the World-Wide Information Bureau, which defense witness Sheila Chaleff so fondly referred to as "MC's Files," are divided into eight "enemy" classifications, depending upon the particular degree of "suppressiveness" which the Guardian's Office perceives in its "enemies." Among the eight classifications are "traitor," "enemy," and "international enemy." The latter category includes such "treacherous" groups as the European League for Human Rights, the World Council of Churches, the United Nations, and the World Federation for Mental Health. Exh. No. 41 hereto. D.L.



agent. In Clearwater, Ms. Byrne infiltrated the Clearwater Sun and provided Scientology almost daily reports on the activities of that newspaper, all of which were forwarded to defendants Kember and Budlong (See e.g., Documents Nos. 17988, 17991, 17995, 17996, 18005 which cover less than a two-week period.) She remained as Scientology's covert operative at the Sun until late 1976 when she was withdrawn out of fear that her cover had been blown.

#### E. State and Local Government Agencies

Numerous state and local Government agencies throughout the United States were targeted for infiltration by the defendants and the Guardian's Office. These infiltrations and thefts were called for by two programs promulgated by Jane Kember -- Guardian Program Order 302, which was also approved by defendant Budlong, and Guardian Order 1080. Guardian Program 302, Government Exhibit 67 at trial, ordered the infiltration of all Governmental agencies that refused to acquiesce to Scientology's demand for access to their files.<sup>10/</sup>

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10/ Thus, pursuant to GPpmO 302, Deac Finn, the Assistant Guardian for Information in New England (AGI NE), wrote on June 8, 1976, requesting Weigand's approval for Finn's project to infiltrate the Suffolk County District Attorney's Office (Document No. 1535, p. 2). See also Document No. 21703 entitled "Project Owl" which sets out co-defendant Hermann's plans for such infiltration in response to the planned investigation of the Church for criminal fraud and of one of its members for kidnapping.



were jointly entitled "Operation freakout." In its initial form Operation Freakout had three different plans. The first required a woman to imitate Paulette Cooper's voice and make telephone threats to Arab Consulates in New York. The second scheme involved mailing a threatening letter to an Arab Consulate in such a fashion that it would appear to have been done by Paulette Cooper. Finally, a Scientology field staff member was to impersonate Paulette Cooper at a laundry and threaten the President and then Secretary of State Henry Kissinger. A second Scientologist would thereafter advise the FBI of the threat.

Two additional plans to Operation Freakout were added on April 13, 1976. The fourth plan called for Scientology field staff members who had ingratiated themselves with Cooper to gather information from Cooper so Scientology could assess the success of the first three plans. The fifth plan was for a Scientologist to warn an Arab Consulate by telephone that Paulette Cooper had been talking about bombing them.

The sixth and final part of Operation Freakout called for Scientologists to obtain Paulette Cooper's fingerprints on a blank piece of paper, type a threatening letter to Kissinger on that paper, and mail it.<sup>77</sup>

77 The sixth plan bears a distinct resemblance to a scheme of Scientologists in 1972 and 1973 against Paulette Cooper. In 1972 Scientologists obtained Paulette Cooper's fingerprints on a blank piece of paper, typed two bomb threat letters on that, and another piece of paper, sent the threats to Scientology offices in New York, and then advised the FBI that they had received the threats and that they may have come from Cooper. Paulette Cooper was indicted in the Southern District of New York in 1973 for making these threats. An order Nolle Prosequi was filed on that indictment in 1975. As Bruce Ray and Randy Windment noted in his April 13, 1976 "CSW" to Weigand, which Weigand approved, the sixth plan of Operation Freakout was likely to prove effective since the same kind of scheme against Cooper had worked in the past.

Attached is approval Operation Freakout. This additional channel [the sixth plan] should really have been put away. Worked with all the other channels. The F.B.I. already think she really did the bomb threats on the C of S [Church of Scientology].

(Document No. 11423).



On March 31, 1976, defendant Kember telexed Henning Feldt concerning Ms. Cooper:

PC [Paulette Cooper] is still resisting paying the money but the judgment stands in PT [present time] . . . [3/] Have her lawyer contacted and also arrange for PC to get the data that we can wait for her to turn up publicly so we can slap the writs on her. If you want legal docs. from here we will provide. Then if she still declines to come we slap the writs on her before she reaches CW [Clearwater] as we don't want to be seen publically [sic] being brutal to such a pathetic victim from a concentration camp.

GkW Log, p. 131 (Exh. No. 36 hereto.)

Gabriel Cazares

When Scientology first decided to set up a base in Clearwater, Florida, in late 1975, it did so using the cover name of "United Churches of Florida" (UCF) with no outward connection to Scientology. Gabriel Cazares, who was Clearwater's Mayor, campaigned for the disclosure of the true purposes of the UCF. When UCF's connections to Scientology were uncovered, Mayor Cazares became highly critical of Scientology. Because of his criticism, Mayor Cazares was targeted by the Guardian's Office and its Information Bureau and covert operations designed to remove him from office were ordered.

To that end, in early March 1976, co-defendant Hermann notified co-defendant Snider that Mayor Cazares was about to attend a Mayor's Conference in Washington, D.C., on March 13-14, and that Assistant Guardian for Information in Clearwater, Joe Lima, was formulating a covert operation to claim that Mayor Cazares had a mistress. (Exhibit No. 38 hereto.) Shortly thereafter, Hermann

3/ Cooper has been sued by the Church of Scientology on numerous occasions and in many jurisdictions around the world. Since 1970 the Church of Scientology has filed six lawsuits in three foreign countries and numerous lawsuits in the United States against Cooper. As of December 1975, with the exception of three foreign lawsuits and a counterclaim in an American lawsuit, all of the actions had been dismissed.



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1976, it was reported that keys to the Attorney General's office had been obtained. (Document No. 1313 at 2.) Co-defendant Weigand also outlined for the benefit of defendant Budlong the progress of GO 1080, appending excerpted stoler data prepared by defendant Raymond. (Document No. 1321; See also Document No. 1336 -- a similar letter from defendant Willardson to defendant Kember, routed through defendants Heldt, Weigand and Budlong.)

On August 10, 1976, compliance was reported to Guardian Program Order 302 as it pertained to the Los Angeles District Attorney's Office. (Document No. 149; Documents Nos. 11591-11595 are copies of documents stolen from that office.) On that same date, compliance was reported with Guardian Order 1080 and Guardian Program Order 302 as far as the Yolo County District Attorney's Office was concerned. (Document No. 813.)

F. Other Federal Government Agencies and the United Nations

Among other direct orders issued by Jane Kember calling for illegal operations against other Government agencies and international organizations, to be carried out by Mo Budlong and his Information Bureau, are the following:

1. Guardian Order 1344, issued October 10, 1974 (Exh. No. 43 hereto), called for penetration of and theft of documents from the 11th District Coast Guard Intelligence and the National Headquarters of Coast Guard Intelligence, Washington, D.C. The program was carried out by, inter alia, the placement of co-defendant Sharon Thomas as Scientology's cover operative at the Coast Guard (prior to her employment at the Department of Justice). Duke Snider makes the following cryptic notation on the cover sheet of the G.O.: "Jane also telexed and mentioned that the BI targets are to be done and not just left up in the air." (Exh. No. 43).

2. Guardian Programme Order 283, issued February 24, 1976

(Exh. No. 44 hereto), which was proposed by co-defendant Cindy Raymond, approved by Morris Builong, and issued by Jane Kember, had the following over all "Plan: To penetrate the UN [United Nations] and establish lines for feedback data so that we can predict and handle anything that may stop the acceptance of our submissions to the U.N." Later documents indicate Scientology recruited an FSM to apply for a job as a security guard at the U.N.

3. Guardian Programme Order 407, issued June 9, 1976 (Exh. No. 45 hereto), subtitled "Off the Hook", and issued by Jane Kember two days before Meisner and Wolfe were confronted in this Court-house, called for getting "Scientology in all its aspects 'off the hook' with the IRS . . . ." The means to be used included "monitor IRS handling of audit on 1361 lines" and "ensure 1361 Collection Line keeps close watch on area of IRS concerned with LHM tax returns. . . ."



VI

Comparative Roles of These Defendants and  
the Previously Convicted Co-Defendants

The defendant Jane Kember was, during the periods relevant to the charges of which she was convicted, the Guardian World-Wide of the Church of Scientology. Her principal role was to "protect" and "defend" Scientology from all persons and organizations, private and governmental, whom Scientology viewed or perceived as its enemies. As such -- after L. Ron Hubbard (the Founder and Commodore), and Mary Sue Hubbard (the Deputy Commodore, Controller, and Commodore Staff Guardian) -- she was superior in authority to everyone else within the Guardian's Office. By the defense's own witnesses this Court was told that the defendant Kember ruled with an iron hand the whole Guardian's Office network which stretched through dozens of countries in almost every continent in the world.

Prior to assuming her position as Guardian World-Wide in the late 1960s, the defendant Kember served as the Deputy Guardian for Intelligence (later renamed Information) World-Wide -- a position assumed about 1967 by her loyal and hard working deputy, and now co-defendant -- Morris Budlong. Thus, both defendants Kember and Budlong are long-standing, committed and dedicated high officials of the Guardian's Office. It was unchallenged at their trial that these two defendants took a leading role in every endeavor of the Guardian's Office. They drafted, reviewed and issued every order which commanded the commission of criminal acts. They demanded total and absolute loyalty and obedience from their subordinates, awarded them when they obtained it, punished them when they did not. They demanded to be kept informed of every move made by their underlings through an elaborate system of weekly reports and emergency telex messages when the need arose.

VII

Conclusion

The above recitation of evidence establishes beyond dispute the massive and insidious nature of the crimes these two defendants engaged in over the years. It also puts to rest their protestation, articulated by Mary Sue Hubbard from the witness stand, that they only burglarized Government offices and stole Government documents because of some imaginary Governmental harassment campaign against them.

The brazen and persistent burglaries and thefts directed against the United States Government were but one minor aspect of the defendants' wanton assault upon the laws of this country. The well-orchestrated campaign to thwart the federal Grand Jury investigation by destroying evidence, giving false evidence in response to a grand jury subpoena, harboring a fugitive, kidnapping a crucial witness, preparing an elaborate cover-up story, and assisting in the giving of false statements under oath shows the contempt which these defendants had for the judicial system of this country. Their total disregard for the laws is further made clear by the criminal campaigns of villification, burglaries and thefts which they carried out against private and public individuals and organizations, carefully documented in minute detail. One can only wonder about the crimes set forth in the documents, secreted in their "Red Box" data. That these defendants were willing to frame their critics to the point of giving false testimony under oath against them, and having them arrested and indicted speaks legion for their disdain for the rule of law. Indeed, they arrogantly placed themselves above the law meting out their personal brand of punishment to those "guilty" of opposing their selfish aims.



The crimes committed by these defendants is of a breadth and scope previously unheard. No building, office, desk, or files was safe from their snooping and prying. No individual or organization was free from their despicable scheming and warped minds. The tools of their trade were miniature transmitters, lock picks, secret codes, forged credentials, and any other devices they found necessary to carry out their heinous schemes. It is interesting to note that the Founder of their organization, unindicted co-conspirator L. Ron Hubbard, wrote in his dictionary entitled "Modern Management Technology Defined" that truth is what is true for you," and "illegal" is that which is "contrary to statistics or policy" and not pursuant to Scientology's "approved program." Thus with the Founder-Commodore's blessings they could wantonly commit crimes as long as it was in the interest of Scientology.

These defendants rewarded criminal activities that ended in success and sternly rebuked those that failed. The standards of human conduct embodied in such practices represent no less than the absolute perversion of any known ethical value system. In view of this, it defies the imagination that these defendants have the unmitigated audacity to seek to defend their actions in the name of "religion." That these defendants now attempt to hide behind the sacred principles of freedom of religion, freedom of speech and the right to privacy -- which principles they repeatedly demonstrated a willingness to violate with impunity -- adds insult to the injuries which they have inflicted on every element of society.

These defendants, their co-conspirators, their organization, and any other individual or group that might consider committing similar crimes, must be given a clear and convincing message: criminal activities of the types engaged in here shall not be tolerated by our society.

Moreover, we submit that in imposing any sentence upon these two defendants, the Court should consider the deterrent effect which

a severe sentence will have upon others -- besides the defendant Jane Kember who apparently remains the Guardian World-Wide, all other members of the Guardian's Office, and L. Ron Hubbard himself, the ultimate responsible authority. It is clear from the press releases issued by Scientology following the jury's verdict, and their vicious actions against another member of this Court, that they have yet to learn the errors of their criminal ways.

The United States submits that the only appropriate punishment in this case, the only one that is in the best interest of justice and the public, is a substantial term of incarceration for each of the two defendants now before the Court.

Moreover, we submit that there is no reason whatsoever under 18 U.S. Code § 3148, why these two defendant should not be denied bail pending any appeal they wish to take. Both defendants are in this country solely for trial and the service of any sentence imposed by this Court, pursuant to an extradition order from the Government of the United Kingdom. Following the service of their sentences, they will return to the United Kingdom. They are not employed in the United States, and, indeed, in at least the case of defendant Kember cannot be so employed. Thus, the only questions which remain are, in the words of 18 U.S. Code § 3148, whether

[a] person . . . who has been convicted of an offense and . . . has filed an appeal . . .  
[presents] a risk of flight or danger . . .  
or if it appears that an appeal is frivolous or taken for delay. . . .

We submit that in the instant case, any appeal taken by these two defendants will be frivolous and taken only for the purpose of delaying the ultimate day of judgment. The only real issues raised by the defendants involved the challenge to the jurisdiction of this Court over the burglary charges, and whether they had standing to challenge the searches of the two Guardian's Office premises in Los Angeles, California. The Court of Appeals has already, for all



practical purposes, resolved against them the former issue. In Re: United States v. Kember (Mary Sue Hubbard, et al., appellants), D.C. Cir. Nos. 80-2329 to 80-2332 (decided November 24, 1980), slip op. at 11. As for the standing issue, it has been conclusively resolved against the defendants, as this Court pointed out, by the Supreme Court. Additionally, the defendants, international criminals, whose danger to the community the evidence overwhelmingly bears out, have been convicted of serious charges carrying severe penalties and now present a great risk of flight. Thus, we submit, defendants should be denied bail pending appeal.

Respectfully submitted,

*Charles F. C. Ruff*  
 CHARLES F. C. RUFF  
 United States Attorney

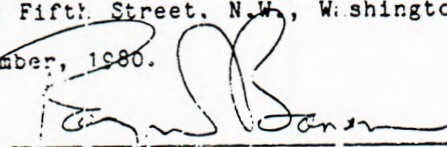
*Raymond Bancroft*  
 RAYMOND BANCROFT  
 Assistant United States Attorney

*Judith Hetherington*  
 JUDITH HETHERINGTON  
 Assistant United States Attorney

*Katherine Winfree*  
 KATHERINE WINFREE  
 Assistant United States Attorney

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that a copy of the foregoing Sentencing Memorandum has been mailed to F. Kenneth Mundy, Esquire, 1850 K Street, N.W., Washington, D.C. 20006 and John Shorter, Esquire, Mitchell, Shorter, & Gartrell, 508 Fifth Street, N.W., Washington, D.C., 20001, this 16th day of December, 1980.

  
RAYMOND BANOUN

Assistant United States Attorney



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19

INTELLIGENCE SPECIALIST TRAINING ROUTINE - TR 1

Purpose: To train the student to give a false statement with good TR-1. To train the student to outflow false data effectively.

Position: Same as TR-1

Commands: Part 1 "Tell me a lie". Command given by coach. Part 2 interview type 2 WC by coach.

Training Stress: In Part 1 coach gives command, student originates a falsehood. Coach flunks for out TR 1 or TR 0. In Part 2 coach asks questions of the student on his background or a subject. Student gives untrue data of a plausible sort that the student backs up with further explanatory data upon the coach further questions. The coach flunks for out TR 0 and TR 1, and for student fumbling on question answers. The student should be coached on a gradient until he/she can lie easily.

Short examples:

Coach: Where do you come from?

Student: I come from the Housewives Committee on Drug Abuse.

Coach: But you said earlier that you were single.

Student: Well, actually I was married but am divorced. I have 2 kids in the suburbs where I am a housewife, in fact I'm a member of the P.T.A.

Coach: What town is it that you live in?

Student: West Brighton

Coach: But there is no public school in West Brighton.

Student: I know. I send my children to school in Brighton, and that's where I'm a P.T.A. member.

Coach: Oh, and who is the Chairman there?

etc.



DO I US Comm  
DO I US  
DG US Comm  
DG US  
Gdn WW Comm  
Guardian WW  
DG I WW Comm  
DG I WW  
DDG I WW  
US Dir Sec WW  
Br I Dir US BI

20 May 75

Re: P&R's  
Yours to DG I 5 May 75  
DG I's to you 14 May 75

Dear Michael,

When Dick first wrote you on this subject a few of us in the office had been comparing notes and smatterings of legal knowledge on this subject with the end result of deciding we needed to research the differences between "breaking and entry" and "unlawful entry".

Upon searching through legal dictionaries and various legal sources I discovered in Wests California Penal Codes (which except for varying technical differences by state is representative of the basic US statewide law on this subject) that the technical differences between "b & e" and "unlawful entry" become relatively meaningless when it can be seen that a large portion, if not the majority, of our high priority successful Collections actions fall into the category of second degree burglary, which is a felony.

Some of our successful collections actions in the recent past and present which fall into this category are: (past) GO 1222, GO 1300, GO 1361, GO 1344, GO 1080-Yolo, DEA; (present) GO 1361, GO 1344, DEA. (this is not an exhaustive rundown, just enough to demonstrate the importance)

From my study of the codes and from my knowledge of how the collections actions are done, one of the key points in solidifying the burglary commission is basically the theft of xerox paper and xerox machine use of whatever group is approached. Without this theft, then the distinction between "b & e" and "unlawful entry" would become important and could mean the difference between a felony and misdemeanor.

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## Burglary

Definition: Every person who enters any building with intent to commit grand or petit larceny or any felony is guilty of burglary. (p.1,a; p2.,a)

Defendant's entry into room to take personal property for temporary use, without intending to deprive owner thereof permanently, is not burglary. (p5,a)

Burglary may be committed by a breaking on the inside and it is burglary to enter an inner door with an intent to commit a felony even though the inner door was unlocked. (p7,a)

Evidence that employee devised plan to steal his employer's property, that such plan involved entry into employer's store by other persons for purpose of taking delivery of property, and that one of such persons was induced by employee to enter store for expressed purpose of aiding and abetting him in consummating scheme to defraud employer, was sufficient to sustain employee's conviction of burglary. (p7,b)

One who enters a room or building with intent to commit a felony is guilty of burglary even though permission to enter has been extended to him personally or as a member of the public. (p8,a)

One who enters a room or building with intent to commit larceny is guilty of burglary even though express or implied permission has been given to him personally or as a member of the public. (p8,b)

Nighttime burglaries of a building currently used as sleeping and living quarters is burglary in the first degree, and all other burglaries by unarmed persons of other buildings, whether occupied or not, are in the second degree. (p11,a)

Punishment: Burglary in the second degree: by imprisonment in the county jail not exceeding one year or in the state prison for not less than one year or more than 15 years - in trial judges discretion. (p12,a, 13,a).

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21 July 1976

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GPam 0 408. 01 2

OPERATION BULLDOZER LEAK

MAJOR TARGET:

Correlatively spread the rumor that will lead Government media, and individual SPs to conclude that LPH has no control of the G of S and no legal liability for Church activity.

PRIMARY TARGETS:

- 1) All US B1 Secs are there on Post.
- 2) The purpose here, is to protect LPH from legal liability for any G of S activities.
- 3) All US B1 Secs are responsible, each in his area, for seeing that this project gets done. - SUBMITTED TO AG AS VEFIND.
- 4) US B1 Ops Net is responsible for the over all planning of this project.
- 5) Any debugging necessary on this project is to be done by each US B1 Sec working in liaison with US B1 Ops Net.
- 6) This project is not to impede upon any other projects/programmes etc that the Secs already have going.

VITAL TARGETS:

- 1) That all US B1 Secs ensure that their AG Is keep security on this project.
- 2) That the AG Is recruit all the necessary FSMs to do this project.

Get the names of all the Government, Media, and individual be obtained for each area by the concerned AG Is.

7/21/76  
JLR  
b7c  
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OPERATING TARGETS:

GOVERNMENT:

1) Each AG I is to make a list of all the Government Bureaus/ Departments/Organizations etc., in his area covering National State and City; that have:

- a) Attacked Scientology in any fashion.
- b) Would have any interest in Scientology for any reason.

AG Is

2) Each AG I is to work out a simple "cover story" for his FSM to use on this project. It can be something like the FSM is going to write a book on Scientology and just wants to get some information. FSM does not use his/her correct name on this cycle.

AG Is

3) Each AG I recruits a reliable FSM to carry out this project. And ensures that security is "in" on the FSM.

AG Is

4) Drill/bullbait/ briefs the FSM on the following:

- a) He will be visiting all proper people in each of the Government agencies.
- b) He will be giving out his cover that in some way he is investigating the C of S.
- c) During the interviews, he will in several different ways mention that he has heard that LHM no longer has any control of the Church; and that an ex-Scientologist had shown some articles to the FSM that stated that it had definitely been established in several Court Case precedents, that LHM had no liability for any Church activity. This should be presented in each interview with very good "intention" so that it is remembered.

- d) Those areas that can't be reached for any reason, should be telephoned by the FSM and the cover story and rumor be given. Say if a Government Office were 2 hundred miles away.

AG Is

- 5) FSM does his in person or telephone interviews and writes up clear reports on each interview's outcome. He should really "IMFINGE" when stating the rumors.

-FSMs

- 6) All AG Is see to it that the FSMs thoroughly complete all those Government Agencies on the list.

AG Is

- 7) AG Is send up progress report on this action to their US Bl-Secs.

AG Is

MEDIA:

- 1) All AG Is are to make a list of all the Media and the specific individuals concerned ( SPs ) in their respective areas, that have printed antheta on Scientology.

AG Is

- 2) All AG Is are to have the same FSM do targets 2 - 7 on the list of Media.



INDIVIDUAL SPs

1) All AG Is who have penetration FSMs in any anti Scientology groups( Squirrels/Deprogramming Groups/ etc.) are to contact these FSMs and work out with them the best approach to spread the rumor, to all the individual SPs / SP groups / etc in each AG I's respective area.

The FSM would be telephoning these various SPs and stating something like. " Well you know that Hubbard has completely resigned from the Scientologists, don't you. I mean he doesn't control it at all any more. I've heard from several ex Scientologists I know, that several times different persons tried to get damages from Hubbard for something that the Scientology Organization did but couldn't. Yes, several Court Cases have ruled that he isn't liable for anything the Scientologists do. I was even shown a few articles on it. Blab/Blab/Blab. This should really impinge.

AG Is  
FSMs

2) AG Is should have a complete list of all the individual SPs in his area and ensure that the FSM or FSMs contact all of them.

AG Is

3) Any AG I that has no penetration FSM in on any of these groups or individual SPs, should use the FSM recruited for the first 2 sections.

AG Is

4) The same procedure should be followed by the FSM. Only this time telephone only. Any additional cover needed on this, should be worked out by the AG I.

AG Is

5) All AG Is are to write up a final Compliance Report on this project.

PRODUCTION TARGET:

The entire project should be completed 3 weeks from receipt.

OPS KAT \* Randy

W

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~~Mass~~ <sup>ago</sup>  
~~than 2501~~ ~~more~~

Secret 9 Nov. 76

Re: Project Quack.

Dear Duke;

Attached is the Project you  
requested in DC GO last day  
plan. I sent this up a week ago.

L.

Bryce

10/6

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11448

OBSTRUCTION

entry people out of line

\* DYNAMITE \*

DD/G US

EYE'S ONLY  
TOPSECRET

Duke,

Here is plan devised.

Love

Byrne.

PROJECT QUAKER

(Refer to the persons concerned  
as "the friends")

INFORMATION

It may be deemed necessary for all the DC staff who could be pulled in for questioning to suddenly leave. This must be done in such a way so that they never can be accused of "fleeing prosecution".

MAJOR TARGET

To ensure that all those DC staff concerned are not available for questioning by Scales yet cannot be prosecuted for fleeing.

PRIMARY TARGETS

1. US B1 SEUS SEC is responsible for seeing that this project gets speedily done. He is to work closely with DG INFO US and DG US on this project.
2. The purpose of this project is to protect the Church from Scales actions.
3. D/NAT'L SEC is responsible for the overall planning of these actions and their debugging as necessary.



#### VITAL TARGETS

1. To ensure that extremely tight security is maintained on this project. .
2. To ensure that it gets done speedily.
3. To ensure that each action is smoothly worked out so that if evacuation is necessary it will be done without a "hitch" or mistake.
4. To get the finances quickly for this project.
5. To get approval up lines on this project "super fast" so that it can be gotten done and ready fast.

#### OPERATING TARGETS

1. Each person to whom this project pertains must immediately get his/her passport. This must be done within security's framework, meaning the person doesn't mention C of S on the passport. For occupation list Researcher - Public Relations Consultant - etc. or housewife for girls that are married. Production target 2 weeks on this. As assigned.
2. US B1 SEUS SEC is to mock up an ED or some such official type proclamation entitled "Sabbatical Leaves." This can be worked out with both D/IAT'L SEC US B1 and DDC US. The above shall basically state that about 10 CO personnel shall be chosen for Sabbatical Leaves. This shall start with the Founding Church in Washington DC. This is being done as an award for upstats who consistently produce well, and as an experiment to see what an energetic staff member will do on his own if given 3 to 6 months to travel and study and use Sec locn. The rules are

the persons are to:

- 1) To observe coventry and to not communicate to a fellow Sengist during this time.
- 2) They are to spend at least some of this time in "retreat" where they are to study their choice of topics.
- 3) They may travel anywhere in the world to do this.
- 4) They are to produce at the end of this time a product of use to Sen.
- 5) They may prepare ahead of time but must start from scratch.

This project is to be called "Ten Talents" after the biblical tale. A quote of this should be gotten from the bible and put into the ED. US B1 SEUS SEC.

3. When the above ED is completed, it should be sent to all GO DC staff or wherever needed. It should appear real to those to whom it doesn't affect. US B1 SEUS SEC.

4. US B1 SEUS SEC is to work out the comma the pertinent persons are to give on this to their relatives or fellow staff. This should be done ahead of time A.S.A.P. so that when and if persons do have "to go" it will not cause any flaps or PTS situations. "All" should be ready to leave at any time. US B1 SEC.

5. US B1 SEC is to ensure that all concerned are ready to leave any time and that all personel cycles - finances, 2D, bills, are completely up to Pt and there are no PTPs or stops to immediate departure.  
US B1 SEUS SEC.

6. US B1 SEUS SEC is to see AG DC keeps all staff actions written up to Pt and that machinery exists, to as best as possible, take over, for each person (including the AG) if this action were needed to be done. This should be worked out in liaison with DDC US and



DG US. US B1 SEUS SEC.

7. US B1 SEUS SEC is to immediately do up a confidential CS-W for "set-aside" finances for this project. This is for seven or eight people so the amount should be about \$10,000 for starters. Any help needed on this can come from DDG US or DG US. These finances should be given to AG DC to hold in case this action is implemented. US SEUS SEC B1.

8. SEUS SEC US B1 is to ensure that the "need to know" is strictly followed on this project. No communicators are to know. The Need to Know is limited to DG US; DDG US; DG I US; DDG I US; US B1 NAT'L SEC; US; D/NAT'L SEC US; any US DC's that must know are told by DG US; and those DG staff that this concerns. SEUS SEC US B1.

9. SEUS SEC US B1 is to set up an "early warning" system whereby he or DG US can be notified immediately with any info needed to decide to put "Failsafe" into action. SEUS SEC US B1.

10. A "safehouse" or "safehouse area" should be chosen in an out of the way place, like a ski resort - Dude Ranch - farm - Canada - Mexico - etc. . This "place" should be investigated to ensure it can be used anytime of the year by people "just showing up". This "safe house" is for the Sabbaticals to go til it is shown one way or another that they must stay away or come back. SEUS SEC US B1.

11. A cover as to why "they" all went there, without the Church knowing it, must be worked out - as this breaks the Sabbatical rules. SEUS SEC US B1.

12. Seven safe different places (or as many as needed) must be worked out, where the Sabbaticals will go if they must extend their leave. One for each person. SEUS SEC  
US 21

13. Secure comm lines, codes, etc., must be worked out for this "safe house" are in #10; and each different place in #12 above. This must be done before any Sabbaticals are taken. SEUS SEC US B1.

14. The entire DC Org should be alerted in some way to this Sabbatical "cover story". And if needed to be implimented the DC Org should be informed of this "award for" those concerned. (The one, two - 10 Talent analogy should be used). This is to take all of the mystery off the line and make it no surprise as well as handling any testimony in court by any staff. SEUS SEC US B1.

15. When all of the above actions are worked out to the DG I/DG US's satisfaction, a check list, code words, etc., are to be worked out so that if deemed necessary the Sabbaticals will go off like clockwork. SEUS SEC US B1.

16. Upon completion of targets 1 - 15, D/NAT'L SEC is to fly to DC on mission. His MOs will be the briefing and any necessary drilling to be done to prepare the "persons" for their "Sabbaticals" if necessary to impliment. MOs to be written by SEUS SEC US B1 and approved by DG I US and DG US. SEUS SEC US B1.

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## Distribution:

DG I US  
B-1 US as OK'd by DG I US  
D/DGUS, Pgms Ch US  
DGUS

PROJECT: EARLY WARNING SYSTEM: B-1.Ref: GO ORDER 261175 LRH "POWER"TARGET #1PROJECT INFO:

This Project contains only B-1 Targets which will have no distribution beyond B-1 and DDGUS as Programs Chief. An addition to this GPgmo follows with PR and Legal targets.

MAJOR TARGET:

Maintain an Alerting EARLY WARNING SYSTEM throughout the GO Network so that any situation concerning governments or courts by reason of suits is known in adequate time to take defensive actions to suddenly raise the level on LRH Personal Security very high. (Target #1 GO 261175 LRH).

PRIMARY TARGETS:

1. SOMEBODY THERE: DGUS, DG I US.
2. WORTHWHILE PURPOSE:

To provide the alert from which defensive actions to suddenly raise the level on LRH personal security very high

3. SOMEBODY THERE TAKING RESPONSIBILITY FOR AREA OR ACTION:

D/DGUS, B-1 Pgms Off US, DG I US, DGUS.

4. FORM OF ORGANIZATION PLANNED WELL:

Compliances obtained by B-1 Pgms Office.

5. FORM OF ORGANIZATION HELD OR REESTABLISHED:

D/DGUS and DG I US rapidly and effectively debugging any bugged targets.

6. ORGANIZATION OPERATING:

Early Warning System functioning and continuing.

VITAL TARGETS:

1. That this system be effective and grant proper importance to facts discovered, so that actual threats are not ignored, and no-situations are not used to alarm or upset LRH lines.
2. That every real threat be known to us before activation.
3. Any hard info on potential or existing threat to LRH or MSH from a government agency or individual litigation or from any source whatever to be telexed to MW, cc to CS-g.

GOVERNMENT  
EXHIBIT  
53

24



FEDERAL

1. Place an agent into the US Attorney's Office DC as a first action as this office should cover all Federal agencies that we are in litigation with or may be in litigation with. AG I DC
2. Obtain data on their intended actions toward Scientology, LRH/MSH. AG I DC
3. Get an agent into the US Attorney's office LA as a simultaneous action. (This is the one Federal Agency Justice asked us to back off of on our FOI actions). BR I DIR US
4. Obtain data on their intended actions toward Scientology, LRH/MSH. BR I DIR US
5. Place a separate agent into the IRS Office of International Operations (OIO) (as this office has a case preparation or investigative action going on LRH personally for income tax evasion or something similar). AG I DC
6. Obtain their files on LRH/MSH and Scientology and monitor the line continuously of other actions against LRH/MSH. AG I DC
7. Continue to monitor tightly the DEA DC, IRS DC and LA, the Coast Guard (soon to go to Immigration and Naturalization) DC. Get any present time data on LRH/MSH. BR I DIR US
8. Get agents in DA LA and AG California into position to obtain advance warning. BR I DIR US

GENERAL

9. Groove in all orgs to report any tips, rumors, or statements of intended attack on LRH/MSH to DG I US immediately. BR I DIR US
10. See any rumors, tips, are traced down as highest priority and that the truth of them is established. DG I US
11. See any real threats are handled fast and efficiently. DG I US

INDIVIDUALS/NON GOVERNMENT SUITS

12. Determine from Legal whether the following names - individuals/groups - with their suits have any subpoena powers re LRH/MSH. If any do, then carry out the targets for that individual. Those that don't are to be omitted from this program and handled on routine lines. BR I DIR US
13. Continue current successful Branch I actions on Goodriches to obtain intelligence and to settle the case. OPS OFF US
14. Get Intell coming from Paulette Cooper, Robert Kaufman, Bernie Green, and John Seffern to obtain intelligence data on any intended attack. AG I NY

15. Get intell coming in from Allard (currently near San Diego, California). BR I DIR US
16. Place a very secure agent into the AMA Chicago headquarters in the best position possible to obtain data on their intended actions towards us. BR I DIR US
17. Work out a Project to obtain advance warning of any intended attack from Adolphina Lantz and/or her husband on LRH and implement it. BR I DIR US
18. Maintain a close line with DG I US for any new suits that could pose a threat to LRH/MSH and add such as targets to this program. DG I US

LOCAL

19. Determine what agency near LRH would serve any Federal governmental subpoena. This could be the local US Marshall's Office. AG I FLAG
20. Work out a project to receive immediate intelligence from the office found in the target above of any subpoena to be served on LRH/MSH and get it done. AG I FLAG
21. Place an agent in the State Attorney General's Office in a position to learn of any intended attack. AG I FLAG
22. Infiltrate the local District Attorney's Office (or the state's equivalent of DA). Get the agent into the best position to gain intell of any plans or actions against us. AG I FLAG
23. Determine from what area IRS attack would be implemented (National Office, District Director of area, or local IRS headquarters). BR I DIR US
24. Work out a Project to receive immediate intelligence from the office(s) found in Target #23. BR I DIR US

Henning Heldt, DGUS

and

Dick Weigand, DG I US

for

Jane Kember  
The Guardian WH

W\*



25

*how to steal documents*

COPY -

17 OCT 71

INT HATTING:

THE STRIKE

*file in appropriate  
mat folder*

A strike is the action of gathering information on a covert basis. It is performed by one or more agents (persons doing the strike), who are intentionally aiming at a target (the desired info, or the person who has the target info, etc.).

It is assumed that the individual is hatted as an INT agent.

The strike is done in 12 steps, and each step follows consecutively (thus, step 2 should not be begun until step 1 is completed, and any new observation pertaining to an earlier step during the doingness of a latter step requires re-evaluation of the interim steps and verification of all the data acquired in the process).

The amount of time spent on a step and the amount of info needed for a respective step to be completed depends upon the target. The objective is to get all of the target info, by whatever means is necessary. For example, if the target is well-known and readily accessible to the agent(s), the strike may be achieved very quickly. On the other hand, if the agent(s) knows very little about the target, has no current access to the target, and the target is a large quantity of data, it may take extensive research, planning, and on-target observation to begin the actual strike.

The quantity of knowledge needed to complete each step is relative to the circumstances of the target.

#### THE STEPS OF STRIKING

- 1) Receive the assignment to strike. This usually comes in the form of an order from the agent's senior. The senior may either officially order or unofficially suggest the strike, either way, the idea is given to the agent that the info must be covertly gathered from some source.
- 2) Take ownership of the job. Here the individual determines that he is going to be the one to do the strike.
- 3) Identify the target. This may be knowing the name of a person or group on whom info must be covertly gathered, or it may be knowing the specific location of the place of wanted data, or simply being told to "see what they are up to." Either way, the purpose here is to have a starting basis for the strike.
- 4) Gather info on the target area (the location of the target) for the purpose of striking. This includes any info that would be pertinent to striking. Info is pertinent to striking if it helps the agent to locate (pin-point) the specific target, gain access to the target area and the target, learn the routines of the target area, or anything else that would help to put the agent in control of the target during the strike itself.

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5) Determine the most optimum means available for gaining access to the target area, on the basis of the info now known about it. This includes having a cover.

A cover is the pretense the agent assumes to make the strike possible. It includes anything that protects the agent from exposure as the agent of the strike (eg, assuming the cover of a newspaper man who wants to write an article on Scientology, with the objective of having the target group provide the agent with info on its activities as regards Scientology, but not know that this info will be used by Scientology itself). The most optimum cover is one that excludes the agent from any suspicion by the target. In some instances this would include wearing squeaky shoes, and carrying a large purse or attache at all times so that the one time the agent is carrying target info in the purse or attache, he is not questioned about its contents.

6) Gain access to the target area. This may include obtaining full-time employment from the target if the target is an organization, or simply contacting a person on a friendly basis so that the agent can gain access to personal files kept at home, or any other means that provides access to the target and a timespan of access to the target that will allow the agent to gather all of the info that is wanted.

It is possible that the access to the data will require repeated strikes — and thus, long-term procedures (eg, full-time employment would allow long-term procedures and repeated strikes if the target were an organization).

This step may also be called penetration.

7) Directly observe the target area for verification of the knowledge gained in the preceding steps and continue to gather new data that would be pertinent to striking. This includes determining the actual security measures used by the target area to keep the target safe. (eg, guards making security rounds, locked cabinets, maintenance personnel after working hours, closed circuit TV cameras, alarm systems, etc).

Three tools that are available to the agent (and have been tested and proved valuable in actual strike activity that required very strict security) include:

1) - SECURITY RULE OF THREE: If the agent observes an activity in the target area occurring three separate times under identical or similar conditions within a given period of time (usually one week), he can use these observations in planning his striking activity.

One always observes for current and usual (predictable) activities in the target area, and accessible exits from the target area for "quick-get-away."

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#2 - SECURITY RADIUS: a distance around the target that can be postulated as creating a safe condition for strike activity. The radius may be used to listen for persons coming near the target area during strike-preparation and actual strike activity. (eg, if the strike requires that no one know that the agent has been in the target area, the agent should be able to hear someone enter his security radius and quickly leave the target area without being seen or heard by the intruder and without leaving evidence of his presence).

#3 - If the target is extensive written material, it may be most optimum to have a separate location from the target area for reading and xeroxing or transcribing the data — this is called a SAFE READING PLACE. If this is needed for strike activity, it should be determined during step 7 of striking procedures.

The final aspect of step 7 is evaluation of all data obtained upon direct observation of the target area and re-evaluation of the data learned in the preceding six steps in light of the direct observation data.

8) Determine how to safely get the target information from the target area to the person who wants the info. (This would include making sure that the agent's cover is adequately planned (eg, the big purse, etc.))

9) Plan the actions, step by step, that will be necessary in doing the strike. For instance, it may be found that the most optimum time to strike is between 12:30 PM and 12:55 PM. Thus the agent would plan to arrive at the target area at 12:31 PM; if the target area is safe (no persons present), he would then proceed to perform the strike, always listening to his security radius for intruders; he would proceed with operations until 12:50 PM, making sure that he is out of the target area by 12:52 PM. This plan might include hitting the target, getting the info xeroxed in the safe reading place, and returning the target info to its original location by 12:55 PM.

This step includes preparation for any unusual circumstances that might arise and how they would best be handled. For instance, if someone entered the security radius of the above situation at 12:40 PM, would the agent leave the area immediately or wait for the person to leave the security radius?

The purpose of step 9 is to make sure that the agent has enough knowledge to perform the strike safely, accurately, and thoroughly.

10) On the basis of the preceding steps, begin either a pretend dry-run of the strike (to check for unknowns and remedy them immediately) or do the actual strike, depending on the circumstances of the entire situation.

The following is an example. It was actually done by an agent in both dry-run and actual strike procedures at a national organization's headquarters. The agent was a full-time employee of the group, and worked on a different floor from the one where the target info was located. The agent had to maintain a totally safe operating condition during strike procedures (ie, it was predetermined that anyone within the security radius was dangerous to the agent and warranted stopping strike activity immediately, and that the less time

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time spent in the target area the more safe the operating condition):

- a - agent went to the target area — no one else was present — proceeded.
  - b - agent found target file.
  - c - agent stood near target file — the label appeared to indicate this file was the target. Agent determined a safe radius for future activity and listened for the usual sounds — a through c were safe, proceeded.
  - d - agent checked file contents, always listening to the security radius. Still safe, so agent proceeded.
  - e - file contents appeared to be wanted, could agent pull them to take to the safe reading place? Yes. Agent proceeded.
  - f - Agent took file to safe reading place, going by the (predetermined) quickest route, agent observed security radius at all times.
  - g - target data was exactly what was wanted. Agent xeroxed data and then hid xeroxes in a place that was safe while the agent was returning the target materials. This included the possibility that the agent would not be able to return to the hiding place for quite a while and a place that would not indicate that the xeroxes belonged to the agent if another person found them.
  - h - agent returned to target area, repeating steps a through c, then put file back exactly where it was found (continually observing the security radius).
  - i - agent took target data (xeroxes) out of the building without being suspected. This required wearing a cape under which the xeroxed data was hidden in a large purse and being friendly with the night guard.
  - j - Agent took evidence and written report of all strike-related activities to agent's senior within 3 hours after strike occurred.
- 11) Get info to the person who wants it, by the safest and quickest route.
- 12) Report all strike-related actions in a written report.

It should be noted here that written progress reports (most optimum) and verbal reports may be given to the agent's senior at any time during the strike procedures. Any report should be written with the objective of informing the senior of the progress done to date and/or reporting any change in agent-like or strike-related activities. A report never serves the purpose of asking the agent's senior to handle the agent's problems.

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## SUMMARY AND COMMENTS

As stressed before, the individual circumstances of the target and the agent determine the extensiveness of the work done in each of the 12 steps and the time it takes to achieve the strike.

If the agent is required to return to the target area on several occasions to get the target info, he should always be observant of new developments and handle each new development as it arises. This may mean simply making a small adjustment in the plan of striking or it may mean a total halt of all agent-like activity until the agent is safely able to continue with the preparation steps and doingness of the strike. (As when the target begins to suspect the agent's activities and tries to protect itself from a strike).

Certain striking activities require more security than others. The agent must determine the degree of security he must maintain, as it is relative to his individual situation, in order to achieve the strike.

Whether a strike takes 15 minutes to prepare for or 15 months, the key to the whole game is observing what is really there, not what you were told should be there; and working on the basis of what you know.

END OF REPORT

Kathy Gregg  
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EXHIBIT 2

EXAMPLES OF JUDICIAL PROCEEDINGS INVOLVING THE CHURCH  
OF SCIENTOLOGY

1. Founding Church of Scientology v. United States, 412 F.2d 1197 (1969), U.S. Court of Claims.
2. Hubbard v. Vosper (1972) 1 All E.R., Court of Appeal, England.
3. Founding Church of Scientology of Washington, D.C. v. United States 409 F.2d 1146 (1969), U.S.C.A., District of Columbia Circuit.
4. Church of Scientology of California v. The Commissioner of Customs and Excise (U.K.), unreported decision of The Value Added Tax Tribunal, November 29, 1977.
5. Church of Scientology of California, et al v. Kaufman et al (1973) R.P.C. 635, Chancery Division (U.K.)
6. Missouri Church of Scientology v. State Tax Commission of Missouri, et al, unreported decision of the Supreme Court of Missouri, dated December 19, 1977.
7. Church of Scientology of Minnesota v. Department of Health, Education and Welfare, 341 F.Supp. 563 (1971), U.S.D.C., D. Minnesota.
8. Church of Scientology of California v. Richardson 437 F.2d 214 (1971), U.S.C.A.
9. United States of America, Libelant v. An Article or Device... "Hubbard Electrometer" or "Hubbard E-Meter" Etc., Founding Church of Scientology et al, unreported decision of U.S.D.C., District of Columbia, July 30, 1971.
10. Church of Scientology of California v. Allard, 988.151, Los Angeles Municipal Court, August 26, 1969, Criminal Complaint.
11. Church of Scientology of California v. The World Federation for Mental Health, Inc., Supreme Court of British Columbia, Action No. C781910, unreported decision of Anderson, J., June 19, 1979.



26. Church of Scientology of Toronto, v. Interantional News Distributing Co., et al, 48 D.L.R. (3rd) 176 (1974), Supreme Court of Ontario.
27. Church of Scientology of Toronto, v. Globe and Mail, et al, 84 D.L.R. (3rd) 239 (1978), High Court of Ontario.
28. Church of Scientology of California v. Department of Health and Social Security, (1979) W.L.R. 723, Court of Appeal, England.
29. Church of Scientology of California v. Department of Health and Social Security, et al, (1979) 3 All E.R. 97 (C.A.)
30. Founding Church of Scientology of Washington, D.C. v. Bell, et al, 603 F.2d 945 (1979), U.S.C.A. District of Columbia Circuit.
31. Church of Scientology of California v. United States Department of Army and United States Department of Defense, 607 F.2d 1282 (1979), U.S.C.A., Ninth Circuit.
32. Church of Scientology of California v. United States Postal Services, 593 F.2d 902 (1979), U.S.C.A. Ninth Circuit.
33. Church of Scientology of Arizona v. City of Phoenix Police Department, 594 P.2d 1034 (1979), C.A. Arizona.
34. Church of Scientology of California v. United States, 591 F.2d 533 (1979), U.S.C.A. Ninth Circuit.
35. Church of Scientology of California v. Siegelman, et al, 475 F.Supp. 950 (1979), U.S.D.C., New York.
36. Founding Church of Scientology v. United States, 55 L.Ed. 2d 519 (1978), Supreme Court of United States.
37. Church of Scientology of California v. Cazares, unreported decision of Ben Krentzman, District Court Judge, in the matter of costs.
38. Founding Church of Scientology of Washington v. Director, F.B.I., 459 F.Supp 748 (1978), U.S.D.C.



39. Church of Scientology of British Columbia v. Radio N.W. Ltd., Harry Ranking, Gary Bennerman, Scott Dixon, and Terry Spence, Supreme Court of B.C. Action No. 29877, issued April 4, 1974.
- 40. Church of Scientology Mission of Strathcona, Church of Scientology Mission of Calgary, and Church of Scientology of Toronto v. Canadian Mental Health Association, Alberta Division, Supreme Court of Alberta Action No. 94895, issued June 30, 1976.
41. Church of Scientology Mission of Edmonton, Church of Scientology Mission of Calgary, and Church of Scientology Mission of Old Strathcona v. Evelyn Hamdon, Les Jackman, Lorna Levett, Betty McCoy, Brendan Moore, William Reid, Neil Taylor and David Wallace, Supreme Court Action No. 95893, issued September 13, 1976.
42. Church of Scientology Mission of Calgary and Church of Scientology of California v. Lorna Levett and ABC Inc., Supreme Court Action No. 126569, issued December 1, 1976.
43. Church of Scientology Mission of Edmonton and Church of Scientology Mission of Old Strathcona v. CHED Radio Station, Eddie Keen and L'Office De La Protection Du Consommateur, Supreme Court of Alberta Action No. 97585, issued December 16, 1976.
44. Church of Scientology Mission of Edmonton, et al v. Saint John's Edmonton Report Ltd. and Keith Bennett, Supreme Court of Alberta Action No. 97721, issued December 28, 1976.
- 45. Church of Scientology of Toronto v. Toronto Sun Publishing Ltd., Supreme Court of Ontario, Toronto, writ issued October 27, 1976.
46. Church of Scientology of Toronto v. John McLean, Supreme Court of Ontario, Toronto, writ issued October 27, 1976.
- 47. Church of Scientology v. CTV Television Network Ltd., CFTO-TV Limited, Norm Perry and Steve North, Supreme Court of Ontario, Toron , writ issued September 28, 1976.



48. Church of Scientology of Toronto v. Pierre-B, Meunier, Marcel Lecours, and Patrick Theriault, Supreme Court of Ontario, Toronto, writ issued September 29, 1976.
49. Church of Scientology of Toronto v. Windsor Star and Stephen Lint, Supreme Court of Ontario, Toronto, writ issued January 29, 1976.
50. Church of Scientology of Toronto v. Emile Gilbert, Supreme Court of Ontario, Toronto, writ issued July 21, 1975.
51. Church of Scientology of Ottawa v. Tower Publications Ltd., Supreme Court of Ontario, Toronto, writ issued July 31, 1975.
52. Church of Scientology of Niagara v. Tower Publications Ltd., Supreme Court of Ontario, Toronto, writ issued July 31, 1975.
53. Church of Scientology of Toronto v. Maclean-Hunter Limited and John Saunders, Supreme Court of Ontario, Toronto, writ issued August 2, 1974.
54. Church of Scientology of Toronto v. A. & A. Books and Records Company of Canada Limited, Supreme Court of Ontario, Toronto, writ issued May 28, 1974.
55. Church of Scientology of Toronto v. Torch Light Books Limited, Supreme Court of Ontario, Toronto, writ issued May 28, 1974.
56. Church of Scientology of Toronto v. Time Square Books, Supreme Court of Ontario, Toronto, writ issued May 28, 1974.
57. Church of Scientology of Toronto v. The Borough of Etobicoke Public Library Board, Supreme Court of Ontario, Toronto, writ issued May 23, 1974.
58. Church of Scientology of Toronto v. Sheldon Book Sales Ltd., Supreme Court of Ontario, Toronto, writ issued May 22, 1974.
59. Church of Scientology of Toronto v. R.Glenister, Supreme Court of Ontario, Toronto, writ of Summons issued March 18, 1974.



60. Church of Scientology of Toronto v. Manfred Haferkorn, carrying on buisness under the name and style of A.B.C. Book Store, and Holloway House Publishing Co., Supreme Court of Ontario, Toronto, writ issued February 6, 1974.
61. Church of Scientology of Toronto v. Editions Champlain Ltd., carrying on business or trading under the name and style of Libraire Champlain, Supreme Court of Ontario, Toronto, writ issued January 18, 1974.
62. Church of Scientology of Toronto v. Manfred Haferkorn, writ issued January 31, 1974.
63. Church of Scientology of Toronto v. Cyril Ronald Vosper, Neville Spearman Ltd., Northumberland Press Ltd., and General Publishing Co. Ltd., Supreme Court of Ontario, Toronto, writ issued January 17, 1974.
64. Church of Scientology of New York and Church of Scientology of California v. Hellberg and Wee, Supreme Court of New York, County of New York, Action No. 3395/77.
65. Narcanon Palo Alto v. Brendan Moore, Lorna Levett, et al, Supreme Court of California, Santa Clara, Action No. P31652, (1977).
66. Church of Scientology of California v. Koenig, Ebert, Verlag and Seymour Press Ltd., Queen's Bench Division of the High Court of Justice, England, Action No. 1973 C.No. 6919.
67. Church of Scientology of British Columbia v. Radio NW Ltd., Harry Rankin, Gary Bannerman, Scott Dixon, Terry Spence, Nancy McLean, John McLean, Paulette Cooper and Vince Forbes, Supreme Court of British Columbia, Writ No. 30030, issued March 4, 1974.
68. People of the State of California v. Raune, et al, State of California, County of Riverside, Oct. 1979.
69. Church of Scientology of Toronto v. Dell International Incorporated, Supreme Court of Ontario action, Writ of Summons issued on August 5, 1971.
70. Church of Scientology of Toronto v. The Toronto Star Limited, Supreme Court of Ontario action, Writ of Summons issued December 20, 1968.



71. Church of Scientology of Toronto v. The United Church Observer, et al, Supreme Court of Ontario action, Writ of Summons issued December 20, 1968.
72. Church of Scientology of Toronto v. The Globe and Mail Limited and Dr. Edmond A.D. Boyd, Supreme Court of Ontario action, Writ of Summons issued December 20, 1968.
73. Church of Scientology of Toronto v. The Students' Administrative Council of the University of Toronto and The Varsity, Supreme Court of Ontario action, Writ of Summons issued December 20, 1968.
74. Church of Scientology of California, the Church of Scientology of Toronto, and Donald Ian Hugh Clark and Phyllis Cherie Stevens both suing as Trustees of Hubbard Foundation Scotland v. Robert Kaufman, Olympia Press Limited and TransCanada Book Sellers, Supreme Court of Ontario action, Writ of Summons issued April 16, 1973.
75. Church of Scientology of Toronto and Church of Scientology of New York v. Morris Deutsch, Supreme Court of Ontario action, Writ of Summons issued June 4, 1979.
76. Church of Scientology of Toronto and Michael Lewis v. Her Majesty the Queen in Right of the Province of Ontario, Supreme Court of Ontario action, Writ of Summons issued April 13, 1978.
77. Church of Scientology of Toronto and Michael Lewis v. Her Majesty the Queen in Right of the Province of Ontario, G.A. Kerr, R.R. McMurtry, L. Grossman, T.L. Wells, and D.R. Timbrell, Supreme Court of Ontario action, Writ of Summons issued June 30, 1978.
78. Church of Scientology of Toronto v. Le Centre D'Etude et de Promotion, Hachette Libraries Ontario Limited, International News, Supreme Court of Ontario action, Writ of Summons issued May 9, 1973.
79. Church of Scientology of Toronto v. I.R. Dowie, Horace Krever, M.C. Urquhart and John A. Lee, Supreme Court of Ontario action, Writ of Summons issued April 13, 1971.



80. Church of Scientology of Toronto v. Editions Champlain Ltee, carrying on business or trading under the name and style of Librairies Champlain, Jacques Bergier, Socadis, Incorporated and Editions J'Ai Lu, Supreme Court of Ontario action, Writ of Summons issued February 28, 1974.
81. Church of Scientology of Toronto v. Tower Publications Incorporated and Paulette Cooper, Supreme Court of Ontario action, Writ of Summons issued May 9, 1973.
82. Church of Scientology of Toronto v. Bruce McLean, County Court of Ontario action, Writ of Summons issued January 26, 1973. Action claiming the sum of \$4,860.00 for services rendered to the defendant.
83. Church of Scientology of Toronto v. Dawn McLean, County of Ontario action, Writ of Summons issued January 26, 1973.
84. Church of Scientology of Toronto v. Nancy McLean, County Court of Ontario action, Writ of Summons issued October 25, 1976.
85. Church of Scientology of California, et al. v. Blumenthal, Secretary of the Treasury, et al, Supreme Court of the United States, 441 U.S. 938, May 14, 1979, No. 78-1166.
86. Founding Church of Scientology v. Cromer, et al, 404 U.S. 933, Nov. 9, 1971, No. 51, Orig.
87. The Founding Church of Scientology of Washington, D.C., Inc., Appellant v. National Security Agency, et al, No. 77-1975, United States Court of Appeals for the District of Columbia Circuit, Slip Opinion, May 15, 1979.
88. Church of Scientology of Hawaii, plaintiff-appellee, v. The United States of America, defendant-appellant, No. 71-2761, United States Court of Appeals for the Ninth Circuit, 485 F.2d 313; 73-2 U.S.I.C. P9659; 32 AFIR 2d 74-5784.
89. Church of Scientology of Minnesota, et al, v. Department of Health, Education & Welfare, etc., et al, No. 71-1507, United States Court of Appeals, Eighth Circuit, 459 F.2d 1044, May 3, 1972, Decided



99. Church of Scientology of California v. Gabriel Cazares, 76-86 Civ T-K, U.S. District Court for the Middle District of Florida, Tampa Division, February 6, 1978, Loss of Rights.
100. Church of Scientology of California, etc. v. Gabe Cazares, 76-11, 711-16, Circuit Court in and for Pinellas County, Florida, November 5, 1978, Depriving the Church Religious Freedom.
101. Church of Scientology of California v. Clearwater Sun, 76-893 Civ TR, U.S. District Court for the Middle District of Florida, December 8, 1976, Harassment and Intimidation.
102. Church of Scientology of California v. Paulette Cooper, 1971-c-1613, High Court of Justice, Queens Bench Division April 6, 1971, Libel.
103. Church of Scientology of California v. Paulette Cooper, 1975-C-No. 8345, Superior Court of the State of California, July, 1976, Libel.
104. Church of Scientology of California v. Paulette Cooper, 76-86 Civ. T-K, Supreme Court of the State of New York, County of New York, May 26, 1978, Breach of Contract.
105. Church of Scientology of California v. Paulette Cooper, Tower Publishing, Inc. and F.W. Woolworth and Co., Ltd., 1973-C-No. 485, High Court of Justice, Queens Bench, January 22, 1973, Libel.
106. Church of Scientology of California and Robert H. Thomas v. Dell Publishing, Inc. a New York corporation, and George Malko (S.F.), C - 70 2089 OJC, C - 70 2089 RHS, U.S. District Court North District of California, September 25, 1970, Defamation.
107. Class Action, All U.S. Churches and Missions of Scientology v. FBI, Attorney General of U.S., CIA, Department of Treasury, U.S. National Central Bureau of Interpol, National Security Agency, U.S. Army and Post Office, 78-0107, District Court U.S. for District of Columbia, January, 1977, refiled January, 1978, Injunction.
108. Church of Scientology of California v. Shirley Foley, Dist. Ct. 77-0495 Appeals Ct., 77-2134 Supreme Ct., 80-1693, U.S. District Court of Columbia, March 21, 1977, Defamation.



118. Church of Scientology of California v. Paul Krassner, individually and d/b/a as The Realist, Does I through X, inclusive, C 101-795, Superior Court of the State of California for the County of Los Angeles, October 3, 1974, Libel.
119. Church of Scientology of California v. Elmer F. Lindberg, Frank Kelly, Henry F. Schuelke, III, Raymond Banoun, Robert J. McCarthy, Richard M. Woolf, et al, CV 772654 KN, U.S. District Court, Central District of California, July, 1977, Violation of plaintiff's constitutional and civil rights. Request injunctive relief for 1, 4, 5, 9, Amendments to Constitution.
120. Church of Scientology of California v. MacFadden Bartell Corp., a New York corp., Bartell Media Corp., Robert Wellman, Does 1 through XX, C3482, Superior Court of State of California, for the County of California, May 11, 1971, Libel.
121. Church of Scientology of California v. John and Nancy McLearn, 76-827-Civ-T-H, U.S. District Court for the Middle District of Florida, October 12, 1976, Libel and Slander.
122. Church of Scientology of California, a non-profit corporation of California, John Taussig, member CSC, Paula Smith, member of CSC and Williamson Good, member v. William Mayer, director California Department of Public Health, and James Estabrook, special consultant to the substance abuse program, et al, CV 74 2014 WMB, U.S. District Court Central District of California, July 16, 1974, Violation of Robinson-Patton Anti Discrimination Act.
123. Church of Scientology of California v. Mountain Industries, Hartney, LA 80-12411 CA, Federal Bankruptcy Court, March, 1981, Breach of Contract.
124. Church of Scientology of California v. Newsline Publications, In a California corp., Jane Nellis, Does I through X inclusive, 997228, Superior Court of California, County of Los Angeles, February 26, 1971, Libel.
125. Church of Scientology of California v. The Olympia Press, Inc. and Robert Kaufman, C 24930, Superior Court of the State of California for County of Los Angeles, July 27, 1971, Libel.
126. Church of Scientology of Boston, Robert M. Ramer, Church of Scientology of California v. Olympia Press, Inc.



- of Delaware, Robert Kaufman, Interstate Distributing Co., Inc. and Arrow Composition, Inc., 94921, Superior Equity Court, March 10, 1972, Libel.
127. Church of Scientology of California and Donald Ian Hugh Clark and Phyllis Cherie Stevens, as trustee of Hubbard Foundation of Scotland v. The Olympia Press, Inc. and Robert Kaufman, 7158/72, Supreme Court of the State of New York, County of New York, March 20, 1973, Libel
128. Church of Scientology of California v. Burt Pines, M.R. Caldwell, John R. Wilson, Evell J. Younger, Lawrence Tapper, Leon Nu'Tall, C 171 252, State of California Superior Court, August 19, 1976, Deprivation of Civil Rights.
129. Church of Scientology of California v. Queen Magazine Limited, 1070-C.No. 5751, Queens Bench Division, June 5, 1970, Libel.
130. Church of Scientology of California v. James T. Russell, 80-7507-15, Circuit Court of the Sixth Judicial Circuit of Florida in and for Pinellas County, General Civil Div. Federal (now in appeal), Summer, 1980, Declaratory and Injunctive Relief.
131. FCDC and Church of Scientology of California v. James Siegelman, Flo Conway, J.B. Lippincott Company & Morris Deutch, 79-Civ-1166 (G.L.G.), U.S. District Court, South District of New York, about May, 1979, Malicious Prosecution.
132. Church of Scientology of California on its own behalf and on behalf of its members v. William Simon (Sec. Treasurer), CV 76-2160 WPG, June 19, 1976, Customs Seized Some Church Material.
133. Church of Scientology of California v. St. Louis Despatch, James Adams, Elain Viets, Pulitzer Publishing Co., Eric McLean, Nancy McLean, John McLean and John Does 1 through XX, C 87937, U.S. Court of Appeals Ninth District, May 9, 1974, Defamation.
134. Church of Scientology of California, a California Non-Profit Corporation on behalf of its members v. Times Mirror Corp. 78-3365 RF (KX), U.S. District Court, Central Dis-

trict of California, August 30, 1978, Libel.

135. Church of Scientology of California v. Tower Publications, Inc., a New York corp., Paulette Cooper, Does I through X, C 18558, Superior Court of New York, November 30, 1971, Libel.
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137. Church of Scientology of California v. Cyrus Vance (Sec. of State), Edmund Musky (Sec. of State), 79-3263, U.S. District Court for District of Columbia, August 22, 1975, injury relief and damages for violation of first amendment rights.
138. Church of Scientology of Boston v. Michael J. Flynn, Garritano, Garritano, Graves and Gervais, Suffolk Superior Court, Boston, MA Civil No. 40906.
139. Garrison, et al v. Kevin M. Flynn, et al, Boston Federal District Court, Civil No. 81-2608-T.
140. Miller v. Michael J. Flynn, et al, Los Angeles Federal District Court, Civil No. 81-4275.
141. Church of Scientology v. Kevin M. Flynn, Thomas Hoffman, et al, Las Vegas Federal District Court, Civil No. LV-80-10-HEC.
142. Church of Scientology v. Kevin M. Flynn, et al, Las Vegas Circuit Court, Civil No. 196880.
143. Church of Scientology v. Michael J. Flynn, Las Vegas Circuit Court Civ. No. 202573.



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EXHIBIT 27 MISSING

SIGNED STIPULATION REFERRED  
TO IN EXHIBIT 18